

The assistant legislative clerk called the roll.

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent on account of illness and, if present and voting, would vote "yea."

The yeas and nays resulted—yeas 47, nays 52, as follows:

[No. 153 Leg.]

YEAS—47

Allen	Eastland	Miller
Allott	Ellender	Murphy
Baker	Ervin	Pearson
Bellmon	Fannin	Prouty
Bennett	Fong	Russell
Bible	Goldwater	Scott
Boggs	Griffin	Smith, III.
Byrd, Va.	Gurney	Sparkman
Byrd, W. Va.	Hansen	Stennis
Cannon	Holland	Stevens
Cook	Hollings	Talmadge
Cotton	Hruska	Thurmond
Curtis	Jordan, Idaho	Tower
Dodd	Long	Williams, Del.
Dole	McClellan	Young, N. Dak.
Dominick	McGee	

NAYS—52

Aiken	Hughes	Packwood
Anderson	Inouye	Pastore
Bayh	Jackson	Pell
Brooke	Javits	Percy
Burdick	Jordan, N.C.	Proxmire
Case	Kennedy	Randolph
Church	Magnuson	Ribicoff
Cooper	Mansfield	Saxbe
Cranston	Mathias	Schweiker
Eagleton	McCarthy	Smith, Maine
Fulbright	McGovern	Spong
Goodell	McIntyre	Symington
Gore	Metcalf	Tydings
Gravel	Mondale	Williams, N.J.
Harris	Montoya	Yarborough
Hart	Moss	Young, Ohio
Hartke	Muskie	
Hathfield	Nelson	

NOT VOTING—1

Mundt

Mr. BYRD of West Virginia. Mr. President, may we have order in the galleries while the clerk reads the recapitulation of the names?

The VICE PRESIDENT. The Senate will be in order and the galleries will please remain quiet.

On this vote, the yeas are 47 and the nays are 52. The amendment is rejected.

[Applause in the galleries.]

The VICE PRESIDENT. The galleries will be advised that if the Chair hears a further outburst of that kind, the galleries will be cleared.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to be recognized following the recognition of the distinguished Senator from Montana (Mr. MANSFIELD).

The VICE PRESIDENT. The Chair would advise the Senator from West Virginia that while a rollcall is in progress the unanimous-consent request of the Senator from West Virginia cannot be entertained.

Mr. BYRD of West Virginia. Mr. President, I ask that the Chair inform the galleries of rule XIX of the Standing Rules of the Senate, and what it states.

The VICE PRESIDENT. The Chair would advise the galleries that demonstrations in the Senate Chamber are not in order and will not be tolerated under any circumstances.

Mr. MANSFIELD. Mr. President, I move that the vote by which the amendment as modified was rejected be reconsidered.

Mr. CHURCH. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, I have an amendment at the desk which I call up and ask for its immediate consideration.

The VICE PRESIDENT. The Senate will be in order.

Mr. ALLOTT. Mr. President, may we have order so that we can hear the reading of the amendment?

Mr. ERVIN. Mr. President, may we have order?

The VICE PRESIDENT. The Senate will be in order. The clerk will state the amendment.

The BILL CLERK. The Senator from Montana (Mr. MANSFIELD) offers an amendment on behalf of himself, the Senator from Kentucky (Mr. COOPER), the Senator from Vermont (Mr. AIKEN), and the Senator from Idaho (Mr. CHURCH) as follows:

On page 5, between lines 18 and 19, insert the following: Nothing contained in this section shall be deemed to impugn the constitutional power of the President as Commander in Chief.

Mr. MANSFIELD. Mr. President, I yield to the distinguished Senator from West Virginia (Mr. BYRD).

Mr. BYRD of West Virginia. Mr. President, I extend my appreciation to the distinguished sponsors and the—

The VICE PRESIDENT. Will the Senate please be in order? If the Senate cannot be in order, it will become necessary to clear the Chamber and to clear the galleries.

The Senator from West Virginia may proceed.

Mr. BYRD of West Virginia. Mr. President, again I want to express my thanks to the sponsors, the cosponsors, and the supporters of the Cooper-Church amendment. I thank especially those who participated in the debate last evening, the able Senator from Idaho (Mr. CHURCH), the able Senator from Kentucky (Mr. COOPER), the able Senator from Arkansas (Mr. FULBRIGHT), and other Senators who participated in that debate, who took the side of the opposition to my amendment. I express my appreciation to them for the way they conducted their remarks and for the fine presentation they made with respect to their objections to my amendment. They conducted what I consider to be a very high level of debate on their part.

They were most generous and courteous to me at all times. And I compliment them for not only carrying on a fine colloquy and a great debate, but I also want to congratulate—

The VICE PRESIDENT. Will the Senator suspend?

The Chair has no intention of letting the Senator continue until we have order in the Senate and in the galleries.

This is the final warning. The galleries will be cleared if necessary.

The Senator may continue.

Mr. BYRD of West Virginia. Mr. President, I commend the cosponsors of the Cooper-Church amendment for having conducted a fair fight, a good fight. They

know that I certainly have only the kindest of feelings toward them.

I also express my appreciation to those Senators who have come to the Chamber today and voted, who have come at great effort to themselves with respect to their health, and at great inconvenience.

Further, I extend my special appreciation to those Senators who cosponsored my amendment and to those who joined in voting for it.

Finally, let me say that I would like, at some point down the road—and I will not ask for unanimous consent—to offer my amendment which I had tried to offer today. And I shall hopefully have that opportunity at some point. I want to put the Senate on notice that it is my intention of doing so and to have a vote at some point on my modification.

It will be my intent to call up that amendment, and I will have the right to do so. I make that statement now.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. BAYH). The Senator from Pennsylvania is recognized.

Mr. SCOTT. Mr. President, I make this request while most Senators are present. I have cleared the revised proposal with the distinguished majority leader. And I am anxious that all Senators hear it.

I will pose this because I would like to see it done in fairness to the distinguished Senator from West Virginia who has sought so often to find some way in which he may be heard on a further amendment.

We all recognize that the distinguished majority leader is entitled to be heard first, as indeed he has been recognized for that purpose.

Having cleared this with the majority leader, I would now ask unanimous consent, since the Byrd amendment has been disposed of and the Senator from Montana (Mr. MANSFIELD) has been recognized and has offered an amendment, that there be a time limitation of 2 hours on said amendments and any amendments thereto, the time to be equally divided between the proponent of the amendment and the minority leader, and that immediately upon the disposition of that amendment, the Senator from West Virginia (Mr. BYRD) be recognized for the purpose of offering an amendment, that there be a time limitation of 2 hours on said amendments, and any amendments thereto, the time to be equally divided between the Senator from West Virginia and the majority leader.

I would point out that certain additional requests, previously made, are not included in this amendment; that it does not affect the final vote on the Cooper-Church amendment; but that it does give the Senator from West Virginia (Mr. BYRD) an opportunity to be heard. I think in all fairness that he should be heard, so as to express in the course of debate what he has not been allowed to do by unanimous consent. I have cleared this proposal with the majority leader.

Mr. CURTIS. Mr. President, reserving the right to object, I should like to ask the distinguished minority leader

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I may say that many of the speeches on the amendment have been very constructive and have recognized the importance of asserting congressional authority in questions which relate to the engagement of our country and its resources—human and material—in war. I hope that the Members of the Senate will support the Cooper-Church amendment and thus take an important step toward assuring for the Congress joint authority in making such decisions. In the present state of the war in Vietnam our decisions can be toward disengagement, as the President proposes, or toward further engagement in Southeast Asia as circumstances beyond the control of the President and the Congress may dictate. If there are those who do not favor the amendment, I would rather that they would vote against it when the opportunity comes, and would not support the Byrd amendment which is now the pending business. I say this with respect and admiration for the distinguished Senator from West Virginia (Mr. Byrd), because I know that his purpose is good.

In considering the two amendments, the Cooper-Church and the Byrd-Griffin, it is important to do so in the framework of the war in Vietnam and to analyze the purposes with which they are drawn, and the consequences to which they could lead.

The purpose of the Cooper-Church amendment is to support the policy which the President has announced, which is the disengagement of the United States in the war in Vietnam. It seeks this objective, by providing in its subsections 2 and 3, that the United States shall not become engaged in a war in Cambodia, for Cambodia, for any government or any forces of Cambodia, without the consent of the Congress. Cambodia is a country to which the United States owes no obligation by treaty, resolution or Executive agreement. It surely must be clear to the Congress and the people of our country that the United States cannot be lawfully engaged in a war in Cambodia without the consent of the Congress.

The resolution has a second objective. It is to prevent the United States from becoming engaged in an extension of the existing state of war in Vietnam in a new theater—Cambodia—without the consent of the Congress. It would seem obvious from the most practical judgment that the Vietnam war will not be ended, or its end will be delayed if our forces, steadily reduced as the President has declared, are required to fight in a widening area. And certainly it is obvious that the South Vietnamese, for whom we have spent so much time in training, and in American resources and lives, should not dissipate their strength in Cambodia when they have not been able to defend South Vietnam. One argument that has been made against these two objectives of our amendment is that it will limit the authority of the President, will tie his hands to conduct the war in Vietnam. It will not limit his authority, unless it is considered by the administration and by the opponents of our amendment that this authority should be so broad as to send our forces and the South Vietnamese forces to engage in a new war in

Cambodia, or a major extension of the Vietnamese war in that country. Logic, commonsense, and the declared objective of the President to end the war in Vietnam honorably and return our forces from Vietnam to the United States in such time as their safety dictate, surely that enlargement of the war is in conflict with his purpose. They dictate that if such circumstances arise that convince the President that another entry into Cambodia was necessary, such a decision should require the joint determination with him upon a matter which would mark a major change in U.S. policy—affecting the resources and people of our country and having broad repercussions not only in Southeast Asia, but throughout the world.

It is argued that our amendment would limit the authority of the President to protect American forces now fighting in Vietnam and Cambodia. This argument has been made to attract the sympathy and concern of the Senate and the people of the United States and it is, of course, a concern of the sponsors of our amendment for we, no less than others, want protection of our forces to be assured. But it is not a correct argument. As long as our forces are in Cambodia, the President has the fullest authority under the Constitution to protect them. Our amendment does not attempt to bear upon the military operation in Cambodia, as it is prospective, taking effect on July 1, the day after the President has said American forces will be returned from Cambodia to South Vietnam. If the question arises, whether our amendment would deny or limit the President's constitutional authority to protect American forces in Vietnam. Again I say that our amendment would not deny the full protection of American forces in Vietnam—now or after June 30. The President has ample authority which cannot be conferred on him, or limited by our amendment or by the Congress, to use his constitutional authority to protect our forces. We have pointed out in the debate that section 4 of our amendment agrees with his authority to use our air force, artillery, and rocket fire emanating from South Vietnam, to interdict enemy forces or supplies and to attack sanctuaries, from whatever source, attempting to threaten American forces in South Vietnam. We have pointed out also that under the long continuing and agreed constitutional authority of the President to defend American forces, the President has the authority of retaliation, of engagement in hot pursuit, to repel attacks and to take such emergency action as he deems necessary along the South Vietnamese-Cambodia border to protect our troops. Again, I affirm that if a larger danger to our troops should arise, one which he believes would require an extension of the war into Cambodia, or a war for Cambodia, the line of his power would merge with the congressional power, and in good judgment and comity, the executive could come to the Congress for its consent.

Although I know the Senator from West Virginia does not so intend, the adoption of his amendment would have as its consequence, the Congress' ac-

quiescence in any determination that he might make as to the necessity of extending his authority, beyond that of repelling attacks against our forces, to the extension of war in Cambodia, for Cambodia, or the extension of the Vietnam war into the new theater of Cambodia. I make this statement without implying that the President intends to take such action, for I respect him and his office, and I believe he does not intend to extend the war. But it is necessary to make this distinction, if this body and the Congress ever intend to assert its joint authority on the question of Vietnam and, in a larger sense, the future questions of warmaking.

We have come to a critical point in this body today as our vote may well affect the war in Vietnam, in extending the war into Cambodia or, on the other hand, disengagement from Vietnam. We have come to a critical point as our vote may afford precedents for the engagement of this country in future wars. We have come to a critical constitutional decision—whether the Senate and the Congress will assert its constitutional authority or surrender again its authority without limit to the executive. This could be the last opportunity of the Congress to assert and retain its constitutional authority in what I believe to be a very clear case—that is, on the issue of engaging in a new war, or the extension of the war in Vietnam. The precedents of Senate action of 1969 sustained our position. In 1969 the Senate adopted the Commitments Resolution. In September, the Senate approved an amendment I offered, providing that U.S. forces could not be used to support the local forces of Laos or Thailand, by a unanimous vote. Although it was not approved by the House, a later amendment providing that American ground forces should not be used in Laos or Thailand, even though sanctuaries exist in Laos, was adopted by the Congress and was approved by the President.

It will be helpful to the Congress, to the President, to the protection of American forces in Vietnam, to the objective of the President's declared purpose of ending the war in Vietnam. It will be reassuring to the people of the United States if the Senate shall refuse to approve the Byrd amendment and if it shall approve the amendment offered by Senators CHURCH, AIKEN, MANSFIELD, and COOPER.

Whatever may happen to the amendment in the House of Representatives, at least the Senate will have met its responsibilities.

The VICE PRESIDENT. All time on the amendment has now expired.

The question is on agreeing to the amendment No. 667 of the Senator from West Virginia (Mr. Byrd) as modified.

Mr. CHURCH. Mr. President, have the yeas and nays been ordered?

The VICE PRESIDENT. The yeas and nays have not been ordered.

Mr. CHURCH. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The VICE PRESIDENT. The yeas and nays have been ordered, and the clerk will call the roll.

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not be right. I do not object to filibusters. I have often participated in them. They serve a good purpose on the whole. Nevertheless, there has not been a large attendance of Senators. I think it would be a mistake to change the pending amendment at this time.

This is a highly complicated matter. It involves the balance between the Executive and the Senate, and as a Senator, I feel it is my responsibility to help maintain a balance between the two.

Therefore, I cannot agree to the modification. It confuses the issue as to what is really involved, because in essence the Byrd amendment would nullify the Cooper-Church amendment, which is an effort to reassert the prerogatives and the influence and the responsibility of the Senate in matters of war and peace.

I think, therefore, that the issue would be much clearer and would be much easier for people who have not been present to understand if they were to hear all the subtleties of the constitutional and political issues.

I am, therefore, bound to object.

Mr. MANSFIELD. Mr. President, I believe that I am recognized for 10 minutes.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. MANSFIELD. Mr. President, the latest casualty figures from Southeast Asia are 50,567 Americans dead. Approximately 8,000 of those were killed in noncombat operations and the balance in combat. The total number of wounded—and these figures are based on reports which go back to last Saturday—amount to 280,694 Americans wounded.

The total casualties of Americans in South Vietnam in the past 6 years is 331,261—331,261 American casualties in a war in which we have no business, which was a mistake in the beginning, and has been a continuing tragedy.

Mr. President, let me say that I am disturbed at reports about Thai troops coming into Cambodia to be subsidized, equipped, and logistically supported by the United States, of South Vietnamese troops going into Cambodia, staying in there after the Presidential deadline, to be logistically equipped with American advisers and air support provided by the United States.

May I say that I am concerned about a number of other things—such as the CIA is using AID funds to carry on covert activities in Laos.

May I say that I am disturbed by the fact that the Chinese have built a line from Meng La in Yunnan Province down to Muong Sai in Laos. From that area, they are extending a Chinese built road, mainly by Chinese labor troops protected by Chinese antiaircraft battalions, to Dienbienphu in Vietnam on the West, very close to the border of Thailand.

In addition, they have also built a road, an offshoot of the road, from Muong Lo, eastward to Phong Saly.

This is a most important area as far as the future developments affecting this country are concerned. One cannot gainsay, one cannot deny, the relationship between the situation which confronts this country at home today and what has been going on in Vietnam for the last 6 years and longer.

It is an area which is having an impact on every American home. It is arousing emotions. It is creating a divisiveness among our people. And it is bringing about a polarization in our feelings. All of this bodes no good for the Republic.

Mr. President, the pending business is the so-called Byrd-Griffin modification of the Cooper-Church amendment. In response to one question which has been raised many times, I would like to reiterate what those of us who sponsor the Cooper-Church amendment have said time and time again regarding the constitutional issue as it affects the pending question.

The President has constitutional powers to protect the lives of U.S. servicemen or any other U.S. citizens not only in Vietnam but anywhere in the world.

He does not need congressional sanction for that purpose.

But the executive branch does not have unilateral constitutional power to commit this Nation to a course of international action which requires a continuing and indefinite input of men and money into one country, even in the name of defending U.S. forces or achieving some other military objective in a second country. He does not have the power, I repeat, to take a course that leads toward war, however that course is described. His legal pursuit of such a course, no less than its continuing national support, requires congressional concurrence. This interpretation is underscored by the national commitments resolution which the Senate adopted earlier in the present Congress.

If the executive branch, without the sanction of Congress, does make a broad commitment on its own in Cambodia, directly or indirectly, it treads a questionable ground, as it may have done in Korea almost two decades ago.

By contrast, the executive branch could act however it wished in Cambodia should Byrd-Griffin be enacted. The executive branch could pursue a broad and indefinite national undertaking, with force, aid, or whatever—without further reference to Congress. The Senate would have already given its authorization in advance—in advance, I emphasize—as it did in the Gulf of Tonkin resolution regarding Vietnam, to whatever any agency of the executive branch did in Cambodia, whether it was wise or foolish, necessary or unnecessary, responsible or irresponsible; whether it led to a wider war or not; provided what was done, was done in the name of this President or a successor, and in the name of withdrawing U.S. forces from Vietnam or protecting U.S. forces in Vietnam.

But if the executive branch were to make such a commitment on its own without the concurrence of Congress, after the Cooper-Church amendment, as it were enacted—if it were—the executive branch would break the law. It would tread on the most dangerous constitutional ground. Cooper-Church alone, therefore, can work in concert with the President's intent to curb U.S. involvement in Southeast Asia. But add the Byrd-Griffin modification, and the Senate would open the door wide to the legal expansion of our involvement in Cambodia and Southeast Asia.

In conclusion, I wish to state that this is no longer a Vietnamese war. In my opinion, it is not even an Indochina war. It is, I believe, a Southeast Asian war which now includes not only the old countries of Indochina—Laos, Vietnam, and Cambodia—but Thailand, as well and the end is not yet in sight.

On the question of sanctuaries: Laos is a sanctuary, Thailand is a sanctuary, North Vietnam is a sanctuary, China is a sanctuary, Okinawa is a sanctuary, and others could be mentioned.

This is a momentous question, in which the constitutional rights, prerogatives, responsibilities are, in my opinion, at stake. There is nothing personal in the Cooper-Church amendment. It is not directed against any President, but it is directed toward the Senate itself. It will be up to the Senate to decide what it wants to do so far as that particular matter is concerned.

Mr. BYRD of West Virginia. Mr. President, I yield myself 5 minutes.

Some days ago, I offered an amendment and later modified it. It is No. 667, star print. I offered the amendment on my own initiative. It was not offered at the request of the White House. I have not talked with the President at any time. I did not ask the White House for its support, although I do appreciate the support which was given.

Mr. MANSFIELD. Mr. President, will the Senator from West Virginia yield?

Mr. BYRD of West Virginia. I yield.

Mr. MANSFIELD. I have asked the Senator to yield only that I may corroborate emphatically what he has just said. This is his amendment; it is his idea; it is his responsibility; and he has offered it on his own.

Mr. BYRD of West Virginia. I thank the able majority leader.

I discussed with the able majority leader and the able Republican assistant leader, several days ago, the fact that I had an amendment that I wanted to offer. I ask to be protected for that opportunity. They assured me that I would have it, and I received it.

When I offered the amendment, the able Republican assistant leader immediately said that he would want to cosponsor it, and he did. So it is the Byrd-Griffin amendment, as the majority leader has said before. I merely wanted to emphasize the fact that this amendment grew out of my own concern and out of discussions with Senators likewise concerned about what may be the interpretation of paragraph (1) of the Cooper-Church amendment. It is said that my amendment would nullify the Cooper-Church amendment. My amendment does not touch paragraphs (2), (3), or (4) of the Cooper-Church amendment in any way whatsoever. I have indicated time and again that I would like to support those three paragraphs.

My amendment does not nullify paragraph (1) of the Cooper-Church language. It merely makes an exception, and that one exception is that when the President—in the proper exercise of his constitutional authority, power, and duties—determines it to be temporarily necessary to use U.S. Armed Forces in Cambodia for the protection of American troops in South Vietnam or to facili-

Senate

THURSDAY, JUNE 11, 1970

(Legislative day of Wednesday, June 10, 1970)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

The Reverend Charles S. Hubbard, minister, First United Methodist Church, Wilson, N.C., offered the following prayer:

Almighty God, our Father, we humbly pray for Thy presence in this place now, knowing that except the spirit of our God be here we labor in vain. We give Thee thanks for a Nation rich in privilege and great in opportunity—a Nation we are called in our time to serve.

Therefore, we ask Thy guidance for our President and Vice President, and especially we pray for Thy grace on these, Thy servants, who represent and defend the dignity, freedom, and well-being of all our people. Hold them in Thy hands. O God. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. RUSSELL).

The assistant legislative clerk read the following letter:

U.S. SENATE.
PRESIDENT PRO TEMPORE,
Washington, D.C., June 11, 1970.
To the Senate:

Being temporarily absent from the Senate, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

RICHARD B. RUSSELL,
President pro tempore.

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Wednesday, June 10, 1970, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EULOGIES TO THE LATE HONORABLE GLENARD P. LIPSCOMB, OF CALIFORNIA, AND JAMES B. UTT, OF CALIFORNIA

Mr. JORDAN of North Carolina. Mr. President, I am calling to the attention of the Senate membership that the closing date for eulogies to the late Congressmen Glenard P. Lipscomb, of California, and James B. Utt, of California, has been set for Friday, June 19, 1970. This will serve as the cutoff date for all insertions in the Record, which are then collected to make up the compendiums of eulogy to these two Members of Con-

gress who, but for their untimely passing, would not be serving in the 91st Congress.

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

The Senate resumed the consideration of the bill (H.R. 15628) to amend the Foreign Military Sales Act.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The time between now and 1 o'clock is under the control of the majority leader and the minority leader or their designees. At that time a vote will be taken on amendment No. 667, the Byrd amendment.

Mr. MANSFIELD. Mr. President, I wish to transfer my time to the distinguished Senator from West Virginia (Mr. BYRD), the author of the pending modification to the Cooper-Church amendment.

Mr. SCOTT. Mr. President, I wish to transfer my time to the distinguished Senator from Kentucky (Mr. COOPER).

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. SCOTT. Mr. President, I make the point of order of no quorum.

The ACTING PRESIDENT pro tempore. On whose time?

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the time for the quorum call be equally divided.

Mr. SCOTT. Mr. President, I ask unanimous consent that the time be equally divided.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded, and I do so only because time is wasting. There will not be any time to dispense in view of a commitment which has been made to the distinguished Senator from New Hampshire (Mr. MCINTYRE) that he be recognized for 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, would the Senator from Idaho yield me not to exceed 10 minutes?

Mr. CHURCH. Mr. President, I am happy to yield 10 minutes to the Senator from Montana.

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized for 10 minutes.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. MANSFIELD. Mr. President, I yield to the Senator from West Virginia.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to modify my amendment No. 667, star print.

The Senators have a copy of the star print at their desks, if they will look at it and follow it as I read.

Mr. President, I ask unanimous consent to modify my amendment No. 667, star print, as follows:

On page 5, line 7, before the semicolon insert a comma and the following: "except that the foregoing provisions of this clause shall not preclude the President in the exercise of his constitutional authority, powers and duties as Commander in Chief, from taking only such temporary action as is clearly necessary to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from South Vietnam, in which circumstances the President is requested to first consult with Congressional leaders;"

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. FULBRIGHT. Mr. President, reserving the right to object, this is quite similar. I believe, to the modification that was suggested yesterday and to which I objected. I do not know that I would like to take the time or should take the time of the Senator to reiterate my reasons for this objection.

Mr. BYRD of West Virginia. Mr. President, the Senator is taking his own time. I have asked unanimous consent to modify the amendment.

Mr. FULBRIGHT. I object, Mr. President.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. BYRD of West Virginia. Mr. President, I have no objection to discussing it. I understand the Senator to say something about his taking my time.

Mr. FULBRIGHT. Whose time am I taking? I do not have any time.

The ACTING PRESIDENT pro tempore. Who yields time to the Senator?

Mr. FULBRIGHT. Mr. President, I was reserving the right to object. I was only going to say a few words.

Mr. CHURCH. Mr. President, I yield 2 minutes to the distinguished Senator from Arkansas.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas is recognized for 2 minutes.

Mr. FULBRIGHT. Mr. President, I do not want to take too much time. The President himself has been quoted in the newspaper as approving amendment No. 667. We certainly would not want, without his approval, to change it, because there would be a false impression given that he had approved this changed version, when he had not.

This matter has been under consideration for several days. And for us to change it now at the last moment when many Senators have been absent would

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people are as uneasy or as outraged as students are about many of the national and international problems that we face. But the small band of activists by their clowning, their flouting of every rule of free discussion, their Marcusean scorn for tolerance and moderation, are depriving their movement of the sentimental advantage that American students have possessed for generations. Although students have upset their parents and neighbors for centuries, there has been a wry tolerance and a forgiving approach to college pranks and extravagant actions through the years. That advantage is drying up.

Where is the working class support that a successful revolution requires? Where is the backing of a solid ethnic group which might reinforce student demands? The worker made his own fight for more than fifty years—with little assistance from students I would note—in strikes and organization and bloody encounters at first for decent working hours, and then for better wages, and finally for security for his old age. Now that he has them he does not react well to accusations that he is a crass materialist. Having skimped and saved to send his children to a college which he never had a chance to attend, he is outraged when students invite his help in closing it down.

At times in the past there has been a tacit community of interest between most students and some Blacks. But can the white students from well-to-do homes mobilize the majority of the Blacks against materialism? Many Blacks resent the efforts of the student militants to tell them what is good for them. The student leaders who announce their intent to stage future revolutions might well ponder the reaction of a Black worker at the time of the recent demonstration in Washington: "Revolution is the latest fad with those white college kids. They know their daddies can afford it."

The danger is that the excesses of the student militants—the mind-blowing type where "Whirl is king"—can bring repression and indefinite postponement of the true and deep revolution—justice for the Blacks, constructive changes in the educational system, in depth attack on poverty, environmental pollution, war, overpopulation—the whole list of contemporary ills. In a manner reminiscent of the young student in Turgenev's book, some of the militant leaders have recently reeled off a number of summer pastimes for settling the world's problems—infiltration of factories where they can stage showdowns, causing widespread power shortages, contaminating water supply, blocking main traffic arteries (that was done for several days recently at the University of Maryland, aiding the campaigns of all the candidates who promised law and order). This type of approach to solving crucial problems, is equivalent to advocating the burning down of medical schools as the cure for cancer.

There is, of course, no easy answer to the problems which seriously divide this country. War, disarmament, race, pollution have been with us for generations and they will not be solved by a nihilistic approach. I believe that the progress we have made has come in part because professors such as Doctor Lowry here have examined problems with their students, have spoken out in the classroom and to clubs where they were invited, have taken time to talk with genuinely troubled students in their offices, and have educated a group of citizens whose voices have been decisive in their communities.

I realize that this process seems unduly slow. But I would preserve the right of free discussion. I would condemn the swollen-faced extremist, full of rage and hate, who screams himself hoarse with cries of "Communist rat" or "Fascist pig." I am old-fashioned enough to believe that problems must still be approached with reason. I believe that there is still a place in the quiet of

the university community where a wise professor and a thoughtful group of students can come closer to solutions than in angry confrontations.

In this climate, there must be a disposition on the part of those in authority to make adjustments required by changing times. But there can be no free discussion on the basis of non-negotiable demands. Neither can there be useful dialogue on the basis of topics which are ruled out of order. I have been encouraged in recent weeks by the way in which the students, faculty, and administration of Murray State have handled the crisis which followed the tragedy at Kent State. There was an attempt to examine the issues and to let representatives in Washington and elsewhere know their views.

Particularly encouraging has been the decision by many students to turn their energies in the coming months to the ballot box. More effective than any shouting match is a carefully run campaign. But victories at the polls demand more than sudden improvisation. And candidacies can be wrecked by violence on the eve of elections. The frightening thing is that some students have said "We will give the system one more chance" as if there must be instant success, or else. It is a bit like kicking a slot machine because it doesn't pay off the first time you put in your quarter.

I believe our extremely serious problems deserve a more thoughtful answer than that. Because we are dealing with civilization and the decisions we make may be fatal ones. We shall need a broad coalition to make our ideas work. I often hear repeated nowadays, the powerful lines of William B. Yeats, written a half century ago:

"Things fall apart; the centre cannot hold;
Mere anarchy is loosed upon the world,
The blood-dimmed tide is loosed, and every-
where

The ceremony of innocence is drowned;
The best lack all conviction, while the worst
Are full of passionate intensity."

Kenneth Clark repeats that verse in his book, *Civilization*, which was published recently. He makes the point that civilization, seemingly strong, is actually quite fragile and that it can be destroyed by a number of factors. It is endangered by a number of fears such as war, invasion, plague or famine. It is stifled by those who oppose growth or change. It is doomed by exhaustion or by feelings of hopelessness. Civilization, he continues, requires confidence—(1) a confidence in the society in which we live, (2) a belief in its philosophy, (3) a belief in its laws, and (4) a confidence in one's mental powers. Above all, there must be a sense of permanence. Civilized man, he argues, must feel he belongs somewhere in time and space, consciously looking forward and back. All of these, one might add, are aided by the free university.

Such a society must be based on a knowledge of our mistakes and our successes. It requires a courage that does not drop out, a tolerance that does not shout down those with whom we disagree, a willingness to testify to one's beliefs, an ability to work patiently for a desired end. Let us hope that the tremendous energy that has been shown in the protests of the past year can be brought to the building of a constructive program that can affirm rather than deny.

In a thoughtful column the other day, James Reston made an appeal which we might all think about in an era when it is easier to scream at an opponent than to discuss his position. Declaring that we suffered from inflated language and despair, he suggested that we turn to the following statement by the philosopher, Alfred North Whitehead:

"It is the first step of wisdom to recognize advances in civilization as processes which all but wreck the society in which they occur . . . the art of free society consists, first, in

the maintenance of the symbolic code; and secondly, in a fearlessness of revision . . . those societies which cannot combine reverence to their symbols with freedom of revision, must ultimately decay."

Twenty-six years ago today, I was aboard a landing craft in the English Channel, part of a follow-up force which was to go in after the beaches of Normandy (in our case, Omaha Beach) had been secured. In the previous five days, as we waited anxiously on our LST, there had been time to think of the coming attack and what it meant for us and our generation. We had had years of confusion, of moral doubts, of internal division. For years "Whirl" had indeed been king. Now we were united and our minds and hearts were set on one thing. All our energies were set on victory.

There were some who felt that the outcome of the battle would determine whether Western Europe regained its freedom and whether the right to speak, write, and teach freely would be restored. There was the question whether young Europeans, then in Labor battalions, in the Resistance, or in prisons, would again have the chance to go to school or to pursue their professions. We were not happy at the prospect of what the coming battle might bring to us personally. But we felt that it was right that we should be there. And from that we gained an abiding strength.

We still have fearful struggles at home and abroad. We still need the unity of purpose that sustained us in 1944. Let us hope—let us pray—that we shall soon find a cause that will enlist our best efforts for our country and for man.

CHIPPING AWAY AT THE COLD WAR

Mr. CHURCH. Mr. President, I have been encouraged at the support for the Cooper-Church amendment to the Foreign Military Sales Act that has been evidenced by the Idaho press. This was not always the case. When I first spoke out in opposition to our military involvement in Vietnam 6 years ago, I stood pretty much alone. Today, this is no longer the case.

In this connection, I have read an editorial entitled "A Step Toward National Sanity" published in the June 9, 1970, issues of the *Blackfoot, Idaho, News*. The *News* correctly points out that the Cooper-Church amendment is a bipartisan one written with a purpose of withdrawing and then withholding American power in Cambodia. It makes two major generalizations—one at the beginning and one at the conclusion of the editorial—which I wish to share with my colleagues.

The *News* editorial begins—

Although it hasn't been labeled as such, the Church-Cooper amendment to a military appropriations bill that may come to a vote this week in the United States Senate can be interpreted as a blow to the national cold war policy to which the United States has been committed since the early 1950s.

After discussing American foreign policy and its excesses since that time, the *News* sums up:

As a step toward the return of national sanity in the conduct of foreign policy, the Church-Cooper amendment to withhold funds that otherwise might permit unlimited extension of the Vietnam war into Cambodia and Laos should be approved by the United States Senate."

Mr. President, I think this is an admirable summing-up of the matter

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pending before us and I ask unanimous consent that the News editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A STEP TOWARD NATIONAL SANITY

Although it hasn't been labeled as such, the Church-Cooper amendment to a military appropriations bill that may come to a vote this week in the United States Senate can be interpreted as a blow to the national cold war policy to which the United States has been committed since the early 1950s.

The Church-Cooper amendment would cut off military funds for use in Cambodia after June 30. It would serve to prevent enlargement of U.S. military action in the Indo-China theater, and would throw the support of the Senate behind President Nixon's stated intention to withdraw all U.S. troops from Cambodia by or before June 30.

That President Nixon does not relish the Senate's support of his commitment is beside the point.

The cold war may have been inevitable.

World War II ended with the exhaustion of all but two major power centers—the United States and the Soviet Union. Of these the United States was possessed of the greatest strength—plus the atomic bomb with its power that terrified both its possessor and those who were defenseless against it.

With the defeat of Hitler's legions in Europe, the two former allies resumed the pursuit of their national interests. The Soviet Union, which had been a pariah among other world powers and had suffered the ghastly total of 17 million war deaths as a result of the world war, remained suspicious not only of a resurgent Germany but also of its former allies.

Such suspicion is understandable if one recalls that following the Russian Revolution of 1917, armies of the United States, France and Britain moved into Russia in an effort to prevent the Bolsheviks from consolidating their power to rule Russia.

Russia, which had born the brunt of the fight against Hitler's legions and in doing so had suffered the greatest casualties among the Allies, chose to remain in the countries of eastern Europe from which their armies had driven the Germans.

What appeared to the Russians to be a prudent act of self-preservation appeared to us to be an act of naked aggression by the ruthless dictator, Joseph Stalin.

As fear mounted, the arms and nuclear race went into a spiral. We have fed our fears as the specter of an international communist conspiracy was accepted as a reality by a high proportion of our citizenry. Collectively we have accepted the proposition that communism could be stopped nowhere in the world without killing the communists.

As a result the United States has become the greatest seller of instruments of death in the history of the world. Our only test for those who have come to us for a purchase or gift of arms has been the depth of their commitment against communism. Propped up with our armament are many of the grubbier military dictatorships, always representing the privileged classes of their nations in both the western world—such as Spain and Greece—and in the third world—such as Guatemala, the Dominican Republic, and South Vietnam.

This course of action has committed national policy in such manner that even Presidents have been unable to reverse the trend.

As a result of the witchhunting era of the 1950s that is associated with the name of Senator Joe McCarthy, the Democratic Party has reacted impulsively against the charge that it is soft on communism. (This is as unfortunate as the reaction of the Republican Party to the charge that it always

brings in its wake an economic depression.)

The seeds of the policy of opposing and helping to put down any revolution of any people anywhere in the globe that appeared to be aided or abetted by communists were planted in the days of Secretary of State John Foster Dulles and Vice President Nixon.

Over-implementation of the policy by Presidents John F. Kennedy and Lyndon B. Johnson came in part from their reaction to the fear of a charge of being soft on communism.

There are indications that President Nixon is alert to the fact that a foreign policy dedicated to killing communists (along with other unfortunate members of the society within which the communist guerrillas like fish swim) is no longer a policy applauded by a majority of the American people. But memory of the role he played as advocate and architect of the cold war policy remains so strong that suspicion he will do everything in his power to extend the war on communism beyond the confines of South Vietnam remains.

As a step toward the return of national sanity in the conduct of foreign policy, the bipartisan Church-Cooper amendment to withhold funds that otherwise might permit unlimited extension of the Vietnam war into Cambodia and Laos should be approved by the United States Senate.

SUPPORT FOR COOPER-CHURCH AMENDMENT GROWS

Mr. CHURCH. Mr. President, in bits and pieces, slowly but surely, the American people are being given details of our Government's covert involvements in Southeast Asia. Thailand is one example. Laos is a second.

Recently, the Detroit, Mich., Free Press focused on our machinations in Laos. It noted that Dr. John Hannah, director of the Agency for International Development—AID—recently conceded publicly that AID has been used as a CIA-front in Laos since 1962.

That was the year the U.S. approved the Geneva Convention—

The Free Press editorial noted with asperity—

which called for the neutralization of Laos and the removal of all foreign forces.

This example—and others—the editorial concluded, is ample justification for adoption of the Cooper-Church amendment, designed to place limits on our involvement in Cambodia, including a prohibition against retaining American troops in that country.

I ask unanimous consent that the Free Press editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

COOPER-CHURCH OPPOSITION SHOWS WHY IT'S NECESSARY

The period of presidential inscrutability is over. After five weeks of being at a loss to explain why Mr. Nixon opposed the Cooper-Church amendment in the Senate, Congress and the country have been told.

The answer not only shows why Mr. Nixon is against it, but why it remains a long way from being strong enough.

Cooper-Church, an amendment to the military authorization bill, is a mild statement which, "in concert" with the President's own promises, calls for the withdrawal of all U.S. forces from Cambodia by the end of this month. Its wording would also put severe limits on financial aid to "persons to engage

in any combat activity in support of Cambodian forces."

In short, to the Thais, for one. To the Laotians, for another. And, from incessantly rumored word from Washington, to American "advisers" who have been serving with the Cambodian army since long before April 30.

It was not until this past weekend that the people found out just how far the executive department has involved us in Indochina beyond what it has been willing to admit. We are up to our eyeballs and getting deeper.

A Senate subcommittee report released Sunday disclosed that the United States, without bothering with a treaty, has been paying Thailand roughly \$50 million a year since 1966 to keep 10,000 troops in Vietnam. Secretary of State Rogers also confirmed Sunday that the administration intends to finance, as well as to arm, the Thai "volunteers" who have gone to the rescue of the Lon Nol government in Cambodia. Senate GOP leader Hugh Scott said yesterday that this was indeed the reason for presidential opposition.

And, in a separate development, Dr. John Hannah, who moved from Michigan State University to become director of the Agency for International Development, admitted that his agency has been used as a front for the CIA in Laos since 1962.

That was the year the U.S. approved the Geneva Convention which called for the neutralization of Laos and the removal of all foreign forces.

Earlier this year Mr. Nixon said that the U.S. had no ground combat forces in Laos, only to have the scope of our force spelled out by James McCartney of our Washington bureau.

Clearly, Cooper-Church does not go far enough, since it limits itself to Cambodia. But it is a first step for Congress to regain its constitutional place in the war-making process.

Congressional limitations on the President's war-making powers, and senatorial limits on his treaty-making powers, are part of our old and honorable democratic traditions. The revelations from Laos, Thailand and Cambodia make it imperative that they be used.

"ADVICE AND CONSENT"—THE SENATE INSISTS UPON IT

Mr. CHURCH. Mr. President, on the day of the Senate vote on the Byrd amendment to the Cooper-Church amendment, the Washington Post asked editorially:

Is Congress about to roll over and play dead once again?

The Senate, as we know, answered in the negative later in the day when it rebuffed the Byrd amendment by a vote of 47 to 52. But the debate continues on the Cooper-Church amendment and the final vote has yet to take place.

Nevertheless, the points raised by the Post editorial remain germane.

The Post correctly interprets the Cooper-Church amendment as one in a hopeful series of actions "designed to curb unlimited executive discretion in carrying on the war."

Furthermore, the editorial stated:

Up to this point Congress has moved logically and consistently in recent months in its effort to regain control of the war power. It cannot scuttle the Cooper-Church amendment and the constructive restrictions voted in December by another Tonkin Gulf fiasco without critically undermining its own prestige and carrying our democratic system closer to the brink of unrestrained executive power. . . .

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viso of the second paragraph of section 101 of Public Law 91-121 (relating to military procurement for fiscal year 1970 and other matters).

Mr. President, last year the Air Force was given approval to develop the International Fighter aircraft and announcement of a contract award is expected later this month.

The International Fighter aircraft is to be an advanced performance aircraft which can provide the air defense capability needed by South Vietnam and Thailand. It could be made available to our other allies in Southeast Asia through the Foreign Assistance Act. Our allies have been under attack or are threatened by Communist countries which have long ago been supplied with the Russian made Mig-21's. When we withdraw they will not have the advantage of air superiority unless they have the International Fighter. At present, they have no aircraft in their inventories which could defend their territories against attack by the Mig-21's.

If our allies in Southeast Asia are to attain a meaningful capacity to provide for their own defense, it is necessary they be equipped with an aircraft suited to their skill levels and their resources.

At present the F-4 air superiority plane is the chief aircraft being used by U.S. forces in the war zone. As Vietnamization continues and we gradually draw down our forces, the military is faced with leaving on hand some type of fighter aircraft. The F-4 plane would be the logical candidate, but it is too complex for our allies to handle well from the standpoint of maintenance and operation. Furthermore, it is expensive.

The International Fighter cost range is placed somewhere between \$1.5 million and \$2.2 million. This compares with the F-4 at a cost of \$3.4 million and the F-15 at \$6.5 million.

Thus, the need for the International Fighter is clear in that its development will save us considerable money and, at the same time, provide our allies with a plane they can operate and maintain. It will enable them to defend themselves in the event of an air attack by North Vietnam which has hundreds of Mig-21's supplied by the Soviet Union.

Another important point regarding the supply of this proposed fighter to our allies is that the International Fighter will in no way be provocative. It will be a defensive plane designed to provide air superiority over the airspace of our allies. It will not have the range to go to Hanoi, for example, as such use would require inflight fueling and our allies in Southeast Asia do not have air tankers to provide this capability.

Mr. President, section 8 of the Military Sales Act would have the effect of amending the Department of Defense Appropriations Act of 1970, as it applies to the International Fighter.

In 1966, the Committee on Foreign Relations recognized the need for the military to provide arms and equipment to our allies in South Vietnam. As a result, this aid was handled through the Armed Services Committees. This enabled the military to provide direct aid to our allies in this war. Thus, from 1966,

authority for such aid was provided for in the annual military procurement authorization and subsequently in the Defense Appropriations Act.

This arms support included Vietnam and other free world forces in Vietnam and local forces in Laos and Thailand. The partial text of the public law which has been continued each year is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1970, for military functions administered by the Department of Defense, and for other purposes, namely:

TITLE VI—GENERAL PROVISIONS

Sec. 638. (a) Appropriations available to the Department of Defense during the current fiscal year shall be available for their stated purposes to support: (1) Vietnamese and other free world forces in Vietnam, (2) local forces in Laos and Thailand; and for related costs, on such terms and conditions as the Secretary of Defense may determine.

(b) Within thirty days after the end of each quarter, the Secretary of Defense shall render to the Congress a report with respect to the estimated value by purpose, by country, of support furnished from such appropriations.

The effect of section 8 in the Military Sales Act will be to exclude from these provisions the international fighter.

Mr. President, how can the freedom-loving nations of Southeast Asia survive if we fail to provide them with the means of self defense? Today we are talking about an international fighter aircraft which can provide air superiority for these small Asian nations which are being besieged by the forces of Communist controlled governments.

These small nations like South Vietnam, South Korea, Taiwan, and Thailand cannot survive without such a tactical aircraft. We can quickly provide the International Fighter to South Vietnam and Thailand if this amendment is adopted. These two countries are directly involved in the Indochina conflict. South Korea and Taiwan, which are removed from the present battle zone, could receive them through the military assistance program—MAP—since their territory is not presently in the battle zone.

The countries opposing these four countries have long ago been supplied with the Russian made Mig-21's. Communist China has the Mig-21. North Vietnam has the Mig-21. North Korea has the Mig-21.

It is strange to me how some make light of the threat posed by the forces of world communism. In Asia we have seen the Soviet-supported North Koreans attack South Korea, the Soviet-supported North Vietnamese attack South Vietnam, Thailand, Cambodia, and Laos, and the Soviet-supported Red Chinese take Tibet, steal land from India, support North Vietnam and North Korea, and, in general, throw their military weight around.

More than one Member of this body feels the Communist threat in Asia and worldwide is a "myth," fed by the warnings of past Presidents Truman, Eisen-

hower, and Nixon. They make light of President Nixon's recent reference to "those great powers who have not yet abandoned their goals of world conquest" in his speech to the Nation on November 3, 1969.

Some critics of the President say it does not matter who rules South Vietnam or Indochina. It should matter to any individual who wishes for his fellow man a free society. There has never been one shred of evidence that a Communist government is a free society that provides and insures basic human rights for its people.

Mr. President, I agree that it is not desirable that the United States be faced with committing our young men to battle every time a Communist nation invades its neighbor. This country has helped defeat the forces of communism in South Korea and South Vietnam, and these efforts were necessary. But why were they necessary? The reason, simply stated, is that these nations were unprepared to defend themselves in the face of an onslaught by Communist nations supported from Moscow and Peking. The amendment I am proposing today would be an important step in seeing that certain nations in Southeast Asia are prepared to hold back the attacks of their Communist neighbors in the future. Surely, everyone in this body, in the House of Representatives, and in the country would like to see our friends so equipped in order that American men would not be required to aid in these battles.

The ill-managed war in South Vietnam has embittered some beyond reason. Get out, now, is the demand of the protestors. It would be nice if it were that simple. But we cannot reverse American policy for the past 10 years overnight. However, President Nixon has set our foreign policy in Southeast Asia on a different course, as enunciated in what is now known as the Guam doctrine or the Nixon doctrine. In his report to the Congress, February 18, 1970, on "U.S. Foreign Policy for the 1970's," President Nixon declared "we are a Pacific power" and "we have learned that peace for us is much less likely if there is no peace in Asia." In defining his Guam doctrine, the President stated:

At the beginning of my trip last summer through Asia, I described at Guam the principles that underlie our cooperative approach to the defense of our common interests. In my speech on November 3, 1969, I summarized key elements of this approach.

The U.S. will keep all its Treaty commitments.

We shall provide a shield if a nuclear power threatens the freedom of a nation allied with us, or of a nation whose survival we consider vital to our security and the security of the region as a whole.

In cases involving other types of aggression we shall furnish military assistance when requested and as appropriate. But we shall look to the nation directly threatened to assume the primary responsibility of providing the manpower for its defense.

Mr. President, this policy, as laid out by the President, is one that all of us should heartily support. The purpose of my amendment is to insure the International Fighter is provided to our ally Thailand. Outside of South Vietnam, they have the heaviest commitment in

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in which it requested the concurrence of the Senate:

H.R. 370. An act to amend chapter 39 of title 38, United States Code, to increase the amount allowed for the purchase of specially equipped automobiles for disabled veterans, and to extend benefits under such chapter to certain persons on active duty;

H.R. 2499. An act to amend title 10, United States Code, with respect to the Academies of the military departments;

H.R. 8663. An act to amend the act of September 20, 1968 (Public Law 90-502), to provide relief to certain former officers of the Supply Corp and Civil Engineer Corp of the Navy;

H.R. 10772. An act to amend title 10 of the United States Code to provide more equitable standard for awarding the gold star lapel button.

H.R. 11876. An act to amend section 1482 of title 10, United States Code, to authorize the payment of certain expenses incident to the death of members of the armed forces in which no remains are recovered;

H.R. 13195. An act to amend title 10 of the United States Code to provide that U.S. flags may be presented to parents of deceased servicemen;

H.R. 13971. An act granting the consent of Congress to the Falls of the Ohio Interstate Park Compact;

H.R. 14452. An act to provide for the designation of special policemen at the Government Printing Office, and for other purposes;

H.R. 14984. An act to provide for the disposition of funds appropriated to pay judgments in favor of the Mississippi Sioux Indians in Indian Claims Commission dockets numbered 142, 359-363, and for other purposes;

H.R. 15012. An act to authorize a study of the feasibility and desirability of establishing a unit of the national park system to commemorate the opening of the Cherokee Strip to homesteading, and for other purposes;

H.R. 15112. An act to repeal several obsolete sections of title 10, United States Code, and section 208 of title 37, United States Code;

H.R. 15866. An act to repeal the act of August 25, 1959, with respect to the final disposition of the affairs of the Choctaw Tribe;

H.R. 16298. An act to amend section 703(b) of title 10, United States Code, to extend the authority to grant a special 30-day leave for members of the uniformed services who voluntarily extend their tours of duty in hostile fire areas;

H.R. 16416. An act to reimburse the Ute Tribe of the Uintah and Ouray Reservation for tribal funds that were used to construct, operate, and maintain the Uintah Indian Irrigation project, Utah, and for other purposes;

H.R. 16496. An act to authorize certain uses to be made with respect to lands previously conveyed to Milwaukee County, Wis., by the Administrator of Veterans' Affairs;

H.R. 16731. An act to amend the provisions of title III of the Federal Civil Defense Act of 1950, as amended;

H.R. 16732. An act to amend title 37, United States Code, to provide that enlisted members of a uniformed service who accept appointments as officers shall not receive less than the pay and allowances to which they were previously entitled by virtue of their enlisted status;

H.R. 17352. An act to designate a Veterans' Administration hospital in Bedford, Mass., as the Edith Nourse Rogers Memorial Veterans' Hospital; and

H.R. 17813. An act to provide for the designation of the Veterans' Administration facility at Bonham, Tex.

HOUSE BILLS REFERRED OR PLACED ON CALENDAR

The following bills were severally read twice by their titles and referred, or placed on the calendar, as indicated:

H.R. 370. An act to amend chapter 39 of title 38, United States Code, to increase the amount allowed for the purchase of specially equipped automobiles for disabled veterans, and to extend benefits under such chapter to certain persons on active duty; to the Committee on Finance.

H.R. 2499. An act to amend title 10, United States Code, with respect to the Academies of the military departments;

H.R. 8663. An act to amend the act of September 20, 1968 (Public Law 90-502), to provide relief to certain former officers of the Supply Corps and Civil Engineers Corps of the Navy;

H.R. 10772. An act to amend title 10 of the United States Code to provide a more equitable standard for awarding the gold star lapel button;

H.R. 11876. An act to amend section 1482 of title 10, United States Code, to authorize the payment of certain expenses incident to the death of members of the Armed Forces in which no remains are recovered;

H.R. 13195. An act to amend title 10 of the United States Code to provide that U.S. flags may be presented to parents of deceased servicemen;

H.R. 15112. An act to repeal several obsolete sections of title 10, United States Code, and section 208 of title 37, United States Code; and

H.R. 16732. An act to amend title 37, United States Code, to provide that enlisted members of a uniformed service who accept appointments as officers shall not receive less than the pay and allowances to which they were previously entitled by virtue of their enlisted status; to the Committee on Armed Services.

H.R. 13971. An act granting the consent of Congress to the falls of the Ohio Interstate Park Compact; to the Committee on the Judiciary.

H.R. 14452. An act to provide for the designation of special policemen at the Government Printing Office, and for other purposes; to the Committee on Rules and Administration.

H.R. 14984. An act to provide for the disposition of funds appropriated to pay judgments in favor of the Mississippi Sioux Indians in Indian Claims Commission dockets numbered 142, 359-363, and for other purposes;

H.R. 15012. An act to authorize a study of the feasibility and desirability of establishing a unit of the national park system to commemorate the opening of the Cherokee Strip to homesteading, and for other purposes;

H.R. 15866. An act to repeal the act of August 25, 1959, with respect to the final disposition of the affairs of the Choctaw Tribe; and

H.R. 16416. An act to reimburse the Ute Tribe of the Uintah and Ouray Reservation for tribal funds that were used to construct, operate, and maintain the Uintah Indian Irrigation project, Utah, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 16298. An act to amend section 703(b) of title 10, United States Code, to extend the authority to grant a special 30-day leave for members of the uniformed services who voluntarily extend their tours of duty in hostile fire areas; and

H.R. 16731. An act to amend the provisions of title III of the Federal Civil Defense

Act of 1950, as amended; placed on the calendar.

H.R. 16496. An act to authorize certain uses to be made with respect to lands previously conveyed to Milwaukee County, Wis., by the Administrator of Veterans' Affairs;

H.R. 17352. An act to designate a Veterans' Administration hospital in Bedford, Mass., as the Edith Nourse Rogers Memorial Veterans' Hospital; and

H.R. 17813. An act to provide for the designation of the Veterans' Administration facility at Bonham, Tex.; to the Committee on Labor and Public Welfare.

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

The Senate continued with the consideration of the bill (H.R. 15628) to amend the Foreign Military Sales Act.

Mr. CHURCH. Mr. President, what is the pending question?

The PRESIDING OFFICER. The question is on agreeing to the pending amendment.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 701

Mr. THURMOND. Mr. President, I send to the desk an amendment to H.R. 15628, the Military Sales Act, providing that on page 6, line 3, before the period the words "or Thailand" be inserted.

The PRESIDING OFFICER. Does the Senator wish to call up his amendment at this time?

Mr. THURMOND. Yes.

The PRESIDING OFFICER. The amendment will be stated.

The ASSISTANT LEGISLATIVE CLERK. On page 6, line 3, before the period, insert "or Thailand".

Mr. THURMOND. This change would enable the United States to provide the proposed International Fighter aircraft to Thailand as well as South Vietnam. These are the only two nations involved in the Indochina area which have the capacity to employ an air superiority aircraft such as the proposed International Fighter.

Thus, section 8 of the Military Sales Act, with the inclusion of this amendment, would read as follows:

Unless the sale, grant, loan or transfer of any International Fighter aircraft (1) has been authorized by and made in accordance with the Foreign Military Sales Act or the Foreign Assistance Act of 1961, or (2) is a regular commercial transaction (not financed by the United States) between a party other than the United States and a foreign country, no such aircraft may be sold, granted, loaned, or otherwise transferred to any foreign country (or agency thereof) other than South Vietnam or Thailand. For purposes of this section, "International Fighter aircraft" means the fighter aircraft developed pursuant to the authority contained in the pro-

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50 percent of original cost, or a total of \$70 million, measured by original requisition cost. Moreover, the amendment provides that the value of any surplus equipment given over and above the \$35 million ceiling would be subtracted from the appropriation for grant military aid.

In other words, what we do in the bill is to reestablish a congressional ceiling, bringing back within the control of Congress the size of the overall military aid program. If we did not establish a limitation, we would have a loophole big enough to empty the whole inventory of the Pentagon into. In the present law, there is no limit to the discretion of the military to decide, with the approval of the President, how much of its own surplus inventory it wants to give away.

It does not make any difference what Congress says. Congress imposes limits on the military aid program. Congress passes a military sales bill and establishes limits on its size. But it does not make any difference. The Department of Defense, as the law now stands, can go around Congress via the excess weapons loophole and, at its discretion, determine the total size of the giveaway program, the countries to which the equipment will be given, in such amounts as the Pentagon decides.

That may be what Congress intends. There may be Members of Congress who want no ceiling established by law and who want no congressional control. I am not one of them. I think it is imperative that we begin to reestablish effective control over these programs. I think it is a mockery for Congress to engage in debate from year to year in an attempt to reach a final decision as to the size of a military program, a military assistance bill, and similarly to sit here for weeks seeking to pass a military sales bill which establishes an authorized ceiling, and then, when its all over continue to permit the existence of a loophole so big as to make the whole effort meaningless. That is the extent of the charade we have been playing. We must establish a meaningful ceiling on the surplus program if Congress is to be the one to make the decision as to how large the arms giveaway programs are to be.

The amendment being offered by the junior Senator from Colorado (Mr. DOMINICK) would increase the \$35 million ceiling to \$150 million and would, in effect, double the grant military aid program by permitting DOD to give away an additional \$300 million in surplus arms. In other words, Senators should know that the effect of adopting the Dominick amendment would be to increase the grant military aid program from its present \$350 million level to \$650 million. Moreover, this amendment would legitimize DOD's previous end runs around Congress and would simply "enhance"—all the more—our very dubious role as the world's No. 1 supplier of arms.

Mr. President, I hope we will stand fast on this issue. The committee has taken a very modest step to reestablish some semblance of congressional control over the size of this program and to bring back within the judgment of Congress a matter that is an essential part

of the foreign policy of the United States.

To delegate that decision away, to leave it to others to decide, to allow the determination to be made at the Pentagon without any reference to congressional approval, seems to me to be an abdication of our responsibilities as members of the legislative branch. So I hope that the Senate will stand fast on this issue, and underscore the intent of Congress to keep the grant military aid program within some sort of reasonable bounds. I hope the Senate will say no to those who would send more, and more, and more arms around the world. I hope we will reject the Dominick amendment.

Mr. President, it is also important to remember that one way or another we will go to conference having established a ceiling on the excess arms program, and we should be dealing there with conferees from the House of Representatives who will be speaking for a version of this bill that contains no ceiling, but rather from their standpoint is open-ended.

Doubtless we shall have to reach some compromise with the House conferees, and in all probability that compromise will involve increasing the ceiling that we will have established in this bill. But if we adopt the Dominick amendment, we will go to conference without a negotiating position, having given it all away, and thus any ceiling that could be reached would be so high as to be ineffectual.

For all of these reasons, Mr. President, I hope that the Senate will reject the amendment.

Mr. DOMINICK. Mr. President, I have listened to the impassioned speech of the Senator from Idaho with great interest. But I think that the record ought to be made crystal clear.

First of all, when the Senator is talking about "the Pentagon to the world," I gather he is not talking about the U.S. Pentagon, he is talking about all the others all over the world, for 15 years.

Second, until the latter portion of his speech, very little reference was made to my amendment. Just so that the record will remain clear, I think it should show that I am maintaining the limitations that were added on the power of the Foreign Relations Committee to determine what will or will not be given away. I have not changed anything in the bill, with the exception of the figure, and actually have added another restriction. This additional restriction I shall read; it is subsection (d), a matter which the committee did not even have in the bill:

"(d) The President shall promptly and fully inform the Speaker of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate of each decision to furnish on a grant basis to any country excess defense articles which are major weapons systems to the extent such major weapons system was not included in the presentation material previously submitted to the Congress. Additionally, the President shall also submit a quarterly report listing by country the total value of all deliveries of excess defense articles, disclosing both the aggregate original acquisition cost and the aggregate utility value at the time of delivery."

This ties down even further the information that will come into the committees, so that they will know on a quarterly basis, at least, what is being done.

The Senator from Idaho, I would submit, is trying to have his cake and eat it, too. He wants us to withdraw, and I think we all want to get out and disengage from Asia as rapidly as we can; but he also says, "No, we cannot give away any of our excess military equipment, because to do so would be to increase militarism in some way."

If we are having problems with people around this world who are trying to encroach on the free world, nations must have the right to defend themselves, or to be defended. That is a part of the purpose for which I am offering this amendment—so that we can strengthen our own allies, enhance our own security, and cut down on our own costs in terms of manpower, maintenance of a military machine, and keeping on hand excess materials which are obsolete and outdated in this country.

Let me just state again the countries we are talking about that, in 1969, were given excess material.

The Republic of China, a longtime ally, which was constantly under attack from the Red Chinese on the mainland. We gave them some protection material.

South Korea, a country which is under attack constantly by the North Koreans. If we do not give them this material, where are they going to get it? Do they have their own economy in a shape where they can go out and buy the things they would like to buy? No; they do not. So we give them material which is obsolete for our requirements, but will still provide a defense mechanism for them.

The Philippines, which is also trying to do something about its own protection.

I could go on and on, listing each of the countries. Of course the major ones receiving assistance at the present time are Turkey and Iran, which form the southern bastions of the NATO defense complex. Unless we can get some support for them, we are going to find ourselves in even more trouble in NATO than we are now, and heaven knows it is in pretty much of a shambles the way it is, with the French withdrawal.

So I say in all candor that I am not trying to knock out the restrictions the Senate Foreign Relations Committee has put into this bill. I am not trying to do anything of the kind. As a matter of fact I have added to them, so that they are even stronger than they were before. But I am trying to provide what the State Department and the Defense Department have insisted should be done if they are to have any kind of a viable program, to be able to support the Nixon policy of letting our allies defend themselves instead of having to ask for American men to do it for them. That is exactly the point of this amendment.

There is one other situation that I think should be mentioned. The theory is that by increasing this limit, we are going to be spending a lot more money. The fact of the matter is that we are going to be saving money, because it

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costs us a lot of money to have to maintain these products; or we simply have to take the same ones which we would otherwise give away and dump them in a scrap pile here, and then everyone goes around and says, "Look at the waste of the military."

Why not take those materials and give them to our allies, and thus give the allies a chance to defend themselves? It seems to me that is the chief issue of this whole debate.

PRESIDENT NIXON'S ECONOMIC STATEMENT

Mr. BENNETT. Mr. President, the President's economic statement today contains many things that have needed to be said for a long time. In a masterful way, he put the problems of inflation in their historical perspective, and clearly outlined those things that are being done and those things that must be done if inflation is to be solved.

The key word in his statement is the word "transition," or perhaps better "transitions" in the plural, because there are three which are interrelated, all of which must be accomplished successfully. Implicit in the meaning of the word "transition" is the understanding that we making progress but which will require even more time in the future if we are to reach it. The first is the transition from war to peace, which affects our Federal spending patterns and our pattern of employment as men are released from the Armed Forces and job opportunities in defense plants are reduced. The second area of transition is the transition from a politically motivated Federal expansionist policy, producing the basic causes of inflation and high interest rates, to a Federal policy intended to produce monetary and fiscal stability. The latter has been the policy of the present administration since it took office 17 months ago.

While inflation is an economic term involving demand and cost factors, one of the major forces behind it is psychological, and while many think that the inflationary thinking habits of a decade should have been brought under control in less than a year and a half, this has not been possible. Although excessive demand has been curtailed, the transition still continues, in a predictable pattern in which cost factors and psychological forces have not yet been subdued, but are beginning to be affected by Federal policies.

Only after an inevitable time lag between official action and its effect on these two factors will there be significant changes in retail prices. This administration in order to minimize the potential damage of a sudden stop has wisely, I believe, sacrificed speed for the ultimate goal—an orderly transition to stability and a sustainable growth rate.

In his talk the President used the example of the process of docking a boat. Because I come from the West—the desert area—I have had more experience with horses than boats. My pet example refers to the problem of stopping a runaway horse. Even after you get a rope

around his neck, he will pull you along with him for some distance before he finally slows down.

To me, the most significant transition the President discussed in his speech is the transition from reliance upon Government controls and pressures to the necessary reliance upon the self-control, responsibility, and good judgment of the individual citizens of the country and those who have power and responsibility in business, in industry, and in the labor movement.

After all, ours is a free market economy based on the rights of each individual citizen to own, use, and dispose of property as he sees fit within the law.

I am glad the President rejected categorically proposals for Federal price and wage controls, because to have accepted this would have a 180-degree reversal of the transition toward free market stability. Moreover, price and wage controls in the past have always been related to war, and we are also in the transition away from war to peace.

Finally, I agree with the President that price and wage controls never have worked and never will without inequities and economic dislocations far exceeding any questionable beneficial effect they might have.

From my personal experience as the manager of a small business during World War II, when we had wage and price controls, I know from firsthand experience that no one really accepts the controls and everyone feels perfectly justified in trying to find as many loopholes as possible in the program. When products cannot be produced within the controlled price limits, either their quality goes down or they are withdrawn from the market entirely and new products that are either not controlled or have controls based on a new price—higher than the one that was set in the beginning—take their place. Inevitably, rationing has to be added to price controls, and this always breaks down and ends up in black markets.

Instead of looking back to increased Government control by force, the President's program looks down the pathway of transition to the only true stability, that which is created and maintained by the important factors in the free market system itself.

He pointed out the necessity of keeping wage demands in balance with the increase in productivity.

He rightly emphasized that the key to our future growth lies in our productivity, so the National Commission he proposed is one which will be working for a positive goal rather than a repressive one. He rejected the travesty of guidelines and substituted for it a kind of watchman function for the Council of Economic Advisors, who will call to the attention of the American people specific actions of the private participants—labor, industry and financial institutions—which may be out of line with the transitional goals to achieve stability.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BENNETT. I yield.

Mr. JAVITS. That, incidentally, is a policy which was espoused by the minor-

ity of the Joint Economic Committee, of which I have the honor to be a ranking member, and I actually introduced a bill on it, with the sponsorship of all minority members, both in this body and in the other body.

I think it is very important to make clear—if the Senator will allow me—that it is not quite the "milquetoast" approach which many would like to make it out to be. There has been criticism on two grounds—one, that we are not decrying anything, that industry and labor do not have to get permission before they raise a price or increase a wage by contract negotiation; second, that it is ex post facto. In other words, if the comment will come after rather than before, what has happened happens. In other words that the significant wage and price decisions that are publicized, are already in effect, and publicizing them will not result in their revision downward.

I should like to submit this to the Senator, who is the ranking minority member of the Committee on Banking and Currency and is a distinguished figure in this field: We felt, one, that anyone assuming that he is going to make a major price or wage change which would have an inflationary impact would know that this would receive widespread publicity and that this publicity will follow shortly after the wage or price decision is made. We think there will be such publication every month. When the President said "periodically," if he is taking our suggestion—and I think he is—it comes on a monthly basis. So that there is warning in implicit in the publication of significant wage and price decisions and labor and management will know this in advance.

Two, we believe—and we believe there is no question about it—that under the President's proposal dates, places, people are going to be explicitly named—when I say "people," I mean an entity, a union, or a corporation—and the particular item or product will be named, also the inflationary impact on the total economy will be analyzed and published.

Three, the President has stated that an evaluation body for Government purchases will be established. The Government does a great deal of buying in this country. We estimate it does something in the area of \$25 to \$30 billion, perhaps more, in buying of tangible products. Government purchasing power could be used to considerable impact in the implementation of an "income policy." The President's proposal thus is a beginning. I am now speaking not only to those who are opposed to controls, such as the distinguished Senator from Utah, but also to those who favor them, standby or otherwise—Representative Reuss and perhaps others.

It is an effort to do something without incurring the dangers which everybody admits are inherent in certain types of controls, in an effort to put a damper, as it were, upon an onward march of wages and prices. It does enlist Presidential prestige, and it does involve some criteria—not fixed guidelines, but criteria as to what it does and what it does not have an inflationary impact. The criterion itself, which the Council of Eco-

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At that point, however, according to authoritative quarters, President Nixon was already under mounting pressure from the Department of Defense and the Saigon Government to agree to an indefinite stay for South Vietnamese units.

LAIRD SUPPORTS STAND

There were growing indications this week that the Administration had decided to accept the argument that the South Vietnamese must remain in Cambodia, or, at least, be free to return when required. That interpretation was confirmed today by Secretary of Defense Melvin R. Laird. However, it was known that many key officials opposed the policy.

Appearing on the "Today" telecast of the National Broadcasting Company, Mr. Laird said: "I think it would be a mistake to make a firm timetable and establish it here for the Vietnamese forces."

"I personally feel as Secretary of Defense," he added, "if the occasion should arise when the South Vietnamese forces could go into the sanctuary areas at a time when the sanctuaries are rebuilt; when there are North Vietnamese occupying the particular territory, I would recommend that they be used if they so desire. It would be a decision that would be worked out in cooperation with the Cambodian Government and the South Vietnamese."

Mr. Laird emphasized, however, that there would be "no American advisers in Cambodia after June 30." Other Administration officials expressed confidence that the South Vietnamese troops had the capability to operate without them.

Mr. CHURCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

The Senate continued with the consideration of the bill (H.R. 15628) to amend the Foreign Military Sales Act.

AMENDMENT NO. 703

Mr. BYRD of West Virginia. Mr. President, on behalf of myself, and the able assistant Republican leader (Mr. GRIFFIN) and the distinguished junior Senator from Virginia (Mr. SPONG), I send to the desk an amendment, and ask that it be printed and lie on the table.

The PRESIDING OFFICER. The amendment will be read for the information of the Senate.

The assistant legislative clerk read as follows:

On page 5, between lines 18 and 19, strike the period and insert the following: "Including the exercise of that constitutional power which may be necessary to protect the lives of United States Armed Forces wherever deployed".

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table.

Mr. BYRD of West Virginia. Mr. President, it will be my intention on tomorrow,

following the vote on the amendment offered by the able Senator from Colorado (Mr. DOMINICK), to call up the amendment which I have just asked to have printed. I hereby notify Senators to that effect.

ADJOURNMENT UNTIL 10:30 A.M., JUNE 18, 1970

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10:30 o'clock tomorrow morning.

The motion was agreed to; and (at 5 o'clock and 50 minutes p.m.) the Senate adjourned until tomorrow, Thursday, June 18, 1970, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate, June 17, 1970:

U.S. AIR FORCE

The following officers for appointment as Reserve commissioned officers in the U.S. Air Force to the grade indicated, under the provisions of sections 8218, 8351, 8363, and 8392, title 10 of the United States Code:

To be major general

Lt. Gen. David Wade, retired, 433-58-0908FG, Louisiana Air National Guard.

Brig. Gen. Edwin Warfield III, 220-26-5606FG, Maryland Air National Guard.

To be brigadier general

Col. Clinton M. Miller, 478-16-9463FG, Iowa Air National Guard.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 17, 1970:

DEPARTMENT OF LABOR

James D. Hodgson, of California, to be Secretary of Labor.

JOINT CHIEFS OF STAFF

Adm. Thomas H. Moorer, U.S. Navy, for appointment as Chairman of the Joint Chiefs of Staff for a term of 2 years, pursuant to title 10, United States Code, section 142.

Adm. Thomas H. Moorer, U.S. Navy, having been designated for duties of great importance and responsibility commensurate with the grade of admiral within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of admiral while so serving.

U.S. AIR FORCE

The following officer to be placed on the retired list, in the grade indicated, under the provisions of section 8962, title 10, of the United States Code:

In the grade of general

Gen. James Ferguson, 277-36-1469FR (major general, Regular Air Force), U.S. Air Force.

The following named officers to be assigned to positions of importance and responsibility designated by the President, in the grade indicated, under the provisions of section 8066, title 10, United States Code:

Lt. Gen. Lucius D. Clay, Jr., 263-60-5244 FR (major general, Regular Air Force), U.S. Air Force.

Maj. Gen. Richard H. Ellis, 221-07-7008FR (colonel, Regular Air Force), U.S. Air Force.

Maj. Gen. Sam J. Byerley, 448-05-3942FR, Regular Air Force.

Maj. Gen. Robert J. Dixon, 216-16-4239 FR, Regular Air Force.

Lt. Gen. Austin J. Russell, 490-44-8776FR (major general, Regular Air Force), U.S. Air Force, to be senior Air Force member, Military Staff Committee, United Nations, under the provisions of section 711, title 10, of the United States Code.

U.S. NAVY

The following named captains of the line of the Navy for temporary promotion to the grade of rear admiral, subject to qualification therefor as provided by law:

Clarence M. Hart	Richard E. Fowler, Jr.
Lewis A. Hopkins	William M. A. Greene
George G. Halvorson	Julian S. Lake
John D. H. Kane, Jr.	Joe Williams, Jr.
Edward L. Feightner	Joe P. Moorer
James M. Thomas	Walter N. Dietzen, Jr.
Brian McCauley	Harvey E. Lyon
Thomas E. Bass III	Emmett H. Tidd
Billy D. Holder	Robert O. Welandor
Richard E. Henning	Robert Y. Kaufman
William H. Shawcross	Stansfield Turner
Robert P. Coogan	William R. St. George
Ralph S. Wentworth, Jr.	Thomas B. Hayward
Daniel J. Murphy	John J. Shanahan, Jr.
John S. Christiansen	John G. Finneran

Rear Adm. John P. Weinel, U.S. Navy, having been designated for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

The following named officers of the Naval Reserve for temporary promotion to the grade of rear admiral, subject to qualification therefor as provided by law:

Line

Paul C. Huelsenbeck	Chester C. Hosmer
Ira D. Putnam	Samuel W. Van Court

Medical Corps

Scott Whitehouse

Supply Corps

Owen C. Pearce

Civil Engineer Corps

John H. McAuliffe

U.S. MARINE CORPS

Maj. Gen. John R. Chaisson, U.S. Marine Corps, having been designated, in accordance with the provisions of title 10, United States Code, section 5232, for commands and other duties determined by the President to be within the contemplation of said section, for appointment to the grade of lieutenant general while so serving.

IN THE ARMY

The nominations beginning James H. Aanderson, to be first lieutenant, and ending Edward Poduszczyk, to be first lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 27, 1970; and

The nominations beginning William D. Jones, to be major, and ending John A. Zimmerman III, to be second lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 27, 1970.

IN THE MARINE CORPS

The nominations beginning William J. Eschmann, to be second lieutenant, and ending Paul W. Thomas, to be second lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 27, 1970; and

The nominations beginning Thomas H. Allen, Jr., to be lieutenant colonel, and ending Stephen J. Williams, to be first lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 27, 1970.

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Section 9 as now written would place such a low ceiling on the amount of excess material that could be delivered under the Military Assistance Program (MAP) that it would drastically reduce deliveries of defense articles to the principal aid recipient countries, such as Turkey, the Republic of China, and Korea. The greater part of the programs to these countries is required for training, operation and maintenance, and shipping costs. In fact, from a world-wide MAP based on a \$350 million appropriation, we do not expect to be able to provide more than \$78 million in equipment for force improvement (investment items) in FY 1970. Thus, excess articles—which have always been an integral part of MAP—provide an essential element to modernize the defense forces of our allies in the underdeveloped world. The reduction proposed in Section 9 would effectively cut down our overall aid. This might raise doubts about the effectiveness of our plans to implement the Nixon Doctrine of assisting allies to assume greater responsibility for their own security and to diminish the need for direct involvement of United States Forces. It would eliminate what they need for carrying the greater burden we are urging them to assume. In order to avoid the problems we believe are certain to arise from Section 9 as now written, we are hopeful that you will support a substantial increase in the authorized ceiling level.

Mr. President, that is exactly the amendment I have offered. I sincerely hope Senators will follow along with the recommendations which we have because the military assistance program which we have been conducting in the last fiscal year, 1969, goes to such countries as I shall now list. Unfortunately, the figures as to whom they might go in the future are classified, and I cannot put those in the RECORD, but I do have the countries here for fiscal year 1969. They are: the Republic of China, Korea, the Philippines, Greece, Iran, Turkey, Ethiopia, for a very small amount, Tunisia, Portugal, Spain, Bolivia, Colombia, Ecuador, Dominican Republic, Honduras, Paraguay, Peru, and Uruguay.

Mr. President, that totaled in terms of millions of dollars at a utility value of 117.3, which, upon figuring the original cost of valuation on which this limitation is placed, would be well over \$300 million. Actually, it was \$391 million, so by my amendment we would be saving \$91 million a year in terms of total costs, even though, in fact, we are not saving, but cutting down because what we have to do at this point, as I said, is to maintain these items or build up a big scrap pile of defense items which the United States can no longer use and the maintenance cost for which is very high.

Mr. PERCY. Mr. President, will the Senator yield so that I may make a brief comment?

Mr. DOMINICK. I yield to the Senator from Illinois.

Mr. PERCY. Mr. President, I have just visited an ordnance torpedo repair plant in Illinois. I know that many times equipment comes back for repair and when we cost it out on the basis of American high labor cost, it is not worth the cost of the labor. Equipment of that type could be extremely valuable to some ally that has a low cost of labor and that could find a way to make such items very useful.

Mr. President, I commend the Senator on his amendment. I think it is useful

and that it will help to implement the Guam doctrine enunciated by President Nixon, which I fully support.

Mr. DOMINICK. Mr. President, I appreciate the support of the Senator from Illinois. I think the points he makes are key issues involved in this particular amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado.

Mr. CHURCH. Mr. President, before commenting directly on the amendment offered by the junior Senator from Colorado, I would like to place this whole grisley armaments business in perspective.

Looking back over the period 1964 to 1969, military expenditures worldwide totaled more than \$1 trillion. While it is difficult to do justice to such a staggering amount, the Arms Control and Disarmament Agency recently offered the following comparisons:

This sum exceeds the value of all goods and services produced in the United States in the past year.

It is more than two years' income for the world's 93 developing countries, in which over two and a half billion people live. And, Larger than any civilian programs financed by public funds, the world's military budget in this period took as much public money as was spent by all governments on all forms of public education and health care.

In view of such comparisons as these, it should come as no surprise that in 1969 alone, "the Pentagons of the world" siphoned off an estimated \$200 billion in economic resources. Extrapolating from this data, a recent U.N. study, as reported in the Christian Science Monitor, described the outlook for the next decade in the following way:

If one silver dollar coin was dropped every second, it would take 126,000 years to exhaust the amount of money that will be spent on world armaments in the next ten years.

Mr. President, all of this should stand as a brutal reminder of man's inability to come to grips with his most pressing and urgent needs; and I for one take no pride in recognizing that, over the next 10 years, the United States will, in all likelihood, be the world's leading producer and distributor of military hardware.

We are the largest single arsenal for the world today, selling or giving away weapons and armaments of all kinds in the magnitude of 6 to 1 over our nearest rival, the Soviet Union. Indeed, when the history of this period is set to print, it will probably record that we were the world's arms merchant par excellence; that the first nation in the world to give meaning to the mass consumption concept was equally adept at selling sporting rifles or submachine guns; automobiles or tanks; passenger planes or supersonic jet fighters; and, finally, history will probably record that what the world's mightiest industrialized nation itself could not use—whether it was wheat or machineguns—it learned to give away.

During the current fiscal year, the Department of Defense estimates that the United States will sell about \$1.9 billion in arms, military equipment, and related services, and that we will give away \$392 million in regular grant military aid, plus

\$166 million—valued at one-quarter of original cost—in surplus military equipment. Thus, according to the current estimates, the United States will sell or give away about \$2.5 billion in war materials during the fiscal year now drawing to a close.

At this point, I should like to underscore the word "estimate," particularly as it relates to the issue of surplus military equipment; and, in consideration of this issue and the Dominick amendment which speaks to it, all Senators should be aware that for this fiscal year DOD originally estimated the excess program at \$79 million, based on acquisition cost. Now DOD tells us that this program will be about \$660 million.

In the case of individual recipients, DOD estimated that Taiwan would receive \$341,000 in surplus military equipment during the current fiscal year. That was the basis upon which Congress was asked to act. The estimate which was given us for our guidance was that \$341,000 in surplus military equipment would be transferred to the Government of Taiwan. Now we are informed that Taiwan will receive not \$341,000, but \$144 million in surplus arms, which is certainly a "C-5A" size overrun in anybody's book, and an overrun which comes on the heels of the rejection by Congress of an additional \$54.5 million in grant military aid for Taiwan.

In a like case, South Korea is the happy recipient of a similar overrun; Greece is getting about twice as much as originally estimated; and there are others, including the Philippines, Columbia, Nicaragua, and Panama.

Mr. President, what these figures really mean is that the Department of Defense has used and is using its stockpile of surplus arms to circumvent the expressed intent of Congress to reduce the grant military aid program. DOD's policy of circumvention was made clear by General Warren, Deputy Assistant Secretary of Defense for Military Assistance and Sales, who recently told the Foreign Relations Committee:

A little over a year ago, we decided we had to get more surplus property into our grant aid programs because our new obligational authority had been reduced considerably.

In view of DOD's use of its excess stockpiles to make end runs around Congress—a use which the Department's chief spokesman for this issue freely admits—I was one member of the committee who sponsored an amendment to put the brakes on the surplus program—to attempt to put some semblance of meaningful congressional control over the size of it.

As the amendment came out of committee, the Department of Defense could give away, during any one fiscal year—and it is important to understand, this is in addition to the regular grant military aid authorization; it is in addition to the military sales program; and it is in addition to DOD funding of military aid to Vietnam, Thailand, and Laos—in addition to all other military aid and sales, this bill would provide that the Department of Defense may give away up to \$35 million worth of surplus military equipment valued at not less than

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Senator from Alabama felt called on to give his views with respect to both pieces of legislation. The bill providing for 18-year-old voting by statute is unwise, almost certainly unconstitutional, and improperly holds out to the young people the hope of voting at 18 years of age, when it is by no means a certainty—supposedly giving them that right and subjecting it to the likely possibility of having it withdrawn from them.

The other aspect of the so-called Voting Rights Act to which I wish to allude is the requirement during this 10-year period—and not only is it a 10-year period, but also, after the State comes out from under the provisions of this act, by proceedings here in the courts in Washington, it is on probation for another 5 years, which would make it 15 years, and I have no doubt that 5 years from now this period would be extended for still another 5 years, which would make it 15 years plus 5 years on probation—is that the entities of government in a State covered by the so-called Voting Rights Act, in passing any resolution, ordinance, or statute having to do with elections, territorial boundaries, election districts, or concerning the corporate limits of any cities, have to get that legislation, that ordinance, that resolution approved by the Attorney General of the United States before it can become effective.

The State of Alabama has enacted some meritorious legislation having to do with the time for qualification of all candidates for office. The Attorney General has turned down those statutes, having no racial implications whatsoever, but they were so held to have had. Thus, we do not like the idea of having to come to Washington, hat in hand, to get approval of the statutory enactments of our States, or the ordinances and resolutions of the governing bodies of our counties or cities.

The junior Senator from Alabama takes no pleasure and no satisfaction from the passage of the so-called Voting Rights Act. He voted against it.

Likewise, he takes no pleasure and no satisfaction from the reduction of the voting age to 18. He voted against that, too.

He yield the floor, Mr. President.

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

The Senate continued with the consideration of the bill (H.R. 15628) to amend the Foreign Military Sales Act.

A LETTER FROM VIETNAM

Mr. LONG. Mr. President, one of my constituents, Mr. Ernest D. Holloway of Monroe, La., sent me an excerpt from a letter from 1st Lt. James Packer III, to his parents. Lieutenant Packer is in Vietnam, and, concerning the Cambodian situation, he has this to say:

Before closing I want to add a word about the demonstrations and rebuttal in response to Nixon's action in regard to Cambodia. People tend to forget that there are Americans here now and many, many have paid a severe price in the past. The point is that we got into it here and can't let it all go to waste. We, at least, have to make an effort at enabling the Vietnamese to carry their own burden. Thusly, we can't pull out all

at once. This sweep through eastern Cambodia is the only sensible thing our military has been allowed to do since getting here. This move will buy us some time, a few months, maybe. It will save American lives. And, lastly, remember this: Not one of those 5 million captured small arms rounds will ever take my life. Nor will any of the other captured materiel. Equate this with every G.I. we have over here and you'll understand how we feel about it all. The lives we lose in Cambodia, though individually precious, will send a lot of guys home to their families. Remember all that when any of you want to cast a stone at Nixon.

I thought it would be appropriate to put this in the RECORD since it expresses so well a sentiment that has been presented by many of our fighting men.

AMENDMENT NO. 689

Mr. DOMINICK. Mr. President, I call up my amendment No. 689 and ask that it be stated.

The bill clerk proceeded to read the amendment.

Mr. DOMINICK. Mr. President, I ask unanimous consent to dispense with further reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendment will be printed in the RECORD at this point.

The amendment of the Senator from Colorado is as follows:

On page 6, line 15, strike out "delivery" and insert in lieu thereof the word "programming".

On page 6, line 21 strike out "\$35,000,000" and insert "\$150,000,000";

On page 6, after line 25, add the following:

"(d) The President shall promptly and fully inform the Speaker of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate of each decision to furnish on a grant basis to any country excess defense articles which are major weapons systems to the extent such major weapons system was not included in the presentation material previously submitted to the Congress. Additionally, the President shall also submit a quarterly report listing by country the total value of all deliveries of excess defense articles, disclosing both the aggregate original acquisition cost and the aggregate utility value at the time of delivery."

Mr. DOMINICK. Mr. President, I intend to ask for the yeas and nays on the amendment. There do not seem to be enough Senators in the Chamber at this moment, so I believe that I had better wait until there are a sufficient number. If necessary, I will have to ask for a live quorum, which I hope will not be necessary.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. SCHWEIKER). The Chair would inform the Senator from Colorado that there is not a sufficient second.

Mr. DOMINICK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMINICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMINICK. Mr. President, I do not anticipate taking more than 10 or 15

minutes before getting to a rollcall vote on this particular amendment. I do not know how much time the opposition will require.

Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. DOMINICK. Mr. President, I will be very brief. I think this amendment might be of interest to all Senators because, for a great change, it is supported not only by the proponent, myself, but also by members of the State Department and the Defense Department. And whenever those two Departments get together, that is somewhat unique.

As worded in the pending bill, section 9 establishes an annual ceiling of \$35 million for excess defense articles which may be given to our allies under the military assistance program. Valuation of the excess articles is required to be not less than 50 percent of their original acquisition cost to the Department of Defense. Thus, on this basis of original cost, the bill limits MAP to \$70 million.

Under the Guam doctrine, we are trying to lower our profile and let our allies assume more of the burden of their own defense. Hence, the present provision, which very sharply restricts our ability to help our own allies, while avoiding a scrap pile in the United States, denigrates the Guam doctrine and does not assist us in cutting costs.

My amendment would leave the 50 percent requirement in determining valuation, regardless of the age of the equipment, but would raise the limit to \$150 million. In effect, this means that we would have \$300 million of excess defense articles which we could dispose of through our allies in the next 2 years, which is some \$9 million less than was authorized in fiscal year 1969.

The point I am making is that even with this larger increase in the amount I am talking about as a limit, it is still less than it was in fiscal year 1969.

The excess defense equipment referred to in this section has long ago been paid for by the Defense budget and is no longer needed to meet current operational requirements and mobilization reserves of the U.S. military services, and otherwise would be scrapped.

In many cases, the items are 10 to 15 years old, in need of extensive repair, and costly for the United States to maintain. But to the recipient country where labor is relatively plentiful and inexpensive, these articles may be extremely valuable and useful as a source of repair parts for equipment they now have or by rebuilding provide very serviceable defense articles. By providing them at no cost to our allies, we thus receive an additional benefit, in that our allies are strengthened, and to this extent our own security is enhanced. It is better to add to the strength of an ally than to add to our scrap heap.

As I said when I started, for a change the State Department and the Defense Department are in agreement and support this amendment.

The State Department, in a letter to the Senator from Pennsylvania (Mr. SCOTT) dated June 8, 1970, reported on section 9. It is very short, and I wish to read it.

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the lives of United States Armed Forces wherever deployed".

The amendment which I have now offered, if adopted by the Senate, when added to the verbiage contained in the Mansfield amendment—and they must be read together—would read as follows:

"Nothing contained in this section"—referring to section 47 "prohibition of assistance to Cambodia," the so-called Cooper-Church amendment—"shall be deemed to impugn the constitutional power of the President as Commander in Chief (including the exercise of that constitutional power which may be necessary to protect the lives of United States armed forces wherever deployed)."

Mr. President, I think it would be well—for the purpose of sketching a historical background into the overall context of my statement today—to insert in the RECORD my Senate floor speech of June 3, and I, therefore, ask unanimous consent to include that speech at this point in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

Mr. BYRD of West Virginia.

Mr. President, Edward S. Corwin, in his book, "The President—Office and Powers, 1787–1957," made this statement:

"Actually, Congress has never adopted any legislation that would seriously cramp the style of a president attempting to break the resistance of an enemy or seeking to assure the safety of the national forces."

It is my opinion, Mr. President, that the Cooper-Church amendment, as now written, would, for the first time in history, dangerously "cramp" the President who seeks to "assure the safety" of American military forces stationed abroad and to expedite and facilitate their ultimate withdrawal from South Vietnam.

Consequently, I have today offered this amendment—No. 669, as modified—to the Cooper-Church language, so as to make it clear that the President, acting as Commander in Chief, will retain his full powers to act to "assure the safety" of our fighting men still stationed in Southeast Asia.

My amendment, I think, is quite clear in its intent. It is also quite clear in its meaning and should require but little explanation by me today. Before addressing my remarks to it, however, I wish to make some comments which I consider relevant to the subject of the constitutional powers of the Congress and the constitutional powers of the President in relation to this whole matter and with particular reference to the Cooper-Church amendment which I seek to change, in part.

For more than a decade now—and under four Presidents, representing both political parties—we have been involved, in varying degrees, in a war in South Vietnam. Our actual participation, insofar as the loss of American fighting men is concerned, dates back to March 1965—although our active involvement began earlier, as I have indicated. Our heaviest losses occurred during the years 1967 to 1968. In those years, we lost 27,569 men. American casualties—as well as those of the enemy—accelerated sharply during the Tet offensive in January 1968. In the month of March 1968, President Johnson made his surprise announcement that he would not be a candidate for reelection, and he announced a halt to the bombing over most of North Vietnam. The peak of American participation, with respect to total American personnel involve-

ment, was 543,482 men—in the month of April 1969.

President Nixon, as did President Johnson before him, has made a sincere effort to enter into meaningful negotiations for peace, but, like his predecessor, has met with no measurable success in this regard. Meanwhile, Mr. Nixon has announced a policy of gradual withdrawal of military personnel, and, in pursuance of that announced policy, has reduced the number of American servicemen in Vietnam from 543,482 men in April 1969 to 428,050 men as of yesterday, June 2, 1970—a total reduction of 115,432 men. Only a few weeks ago, the President announced that 150,000 additional men would be withdrawn by the spring of 1971. President Nixon continues to support a policy leading to the Vietnamization of the war and to a decrease in American involvement. This policy has met with fairly general acceptance throughout the country, and in the Congress, apparently, if we are to judge by the diminution of rhetoric regarding the war in recent months. The President's April 30 televised announcement concerning the incursion into Cambodia triggered a sharp reaction and a mercurial escalation of both rhetoric and protests around the country, and particularly on some of the college and university campuses of the Nation.

Here on the Senate floor we are witnessing a renewed and vigorous debate, which, for some weeks, has been centered upon the so-called Cooper-Church amendment to the Foreign Military Sales Act, H.R. 15628.

Before directing my attention to the Cooper-Church amendment, I wish briefly to state the position I have maintained during the years of American involvement in South Vietnam. Throughout my service in the Senate—the beginning of which service antedates the start of direct American participation in the fighting—I have said very little on the Senate floor or in West Virginia or anywhere else concerning the war in South Vietnam. I have considered myself neither "hawk" nor "dove," to use the common labels. I have, however, supported all appropriations bills providing for the support, the equipping, and the pay of American servicemen in Vietnam. If this makes me a "hawk," it would also characterize practically every sitting Senator as a "hawk" inasmuch as those Senators who have opposed appropriations for the conduct of the war can be numbered on the fingers of one hand, and at least two of these Senators were defeated in subsequent elections.

In supporting appropriations for the war in Vietnam, I have taken the position—and most Senators have apparently viewed the matter likewise—that as long as our country sends men to fight in a foreign land, we ought not be niggardly in appropriating adequate funds for clothing, military pay, ammunition, weapons, and other military hardware, because the least we can do in fulfilling our duty to those fighting men is to provide them with the kind of financial and military support that will enable them to fulfill their military responsibilities and to return home safely.

As to whether or not our country was right in becoming involved, perhaps only future historians will be able to render an objective and fair judgment. It was the view of our leaders—meaning the Chief Executive and his military and civilian advisers—in the previous administrations of Presidents Eisenhower, Kennedy, and Johnson, and now under the administration of President Nixon, that it was in America's best interest that South Vietnam not be taken over by the Communists. Our Government took the position that if South Vietnam were to fall to the Communists, then all of Southeast Asia could and probably would, eventually fall, thus turning over to the Communists

a vast area of 200 million people and rich mineral resources.

It was the view of our leaders that the fall of Southeast Asia to the Communists would be a blow to the free world and that America should help to prevent this from happening.

It was also stated that if America did not act, the Communists would interpret this failure to act as a sign of weakness and that wars of so-called "national liberation" would break out in various other parts of the world.

Gen. Vo Nguyen Giap, the top commander of the North Vietnam military forces, was quoted as saying:

"South Vietnam is the model of the national liberation movement of our time. If the United States can be defeated in South Vietnam, it can be defeated everywhere in the world."

The Peiping Peoples Daily, the foremost Chinese Communist newspaper was quoted as saying that the Vietnamese conflict "is the focal point of the international class struggle" and is the "acid test for all political forces in the world." Thus, it was made to appear that South Vietnam was a "test" case, a landmark case.

The leaders of our Government, moreover, have proceeded on the premise that we had made commitments to go to the aid of South Vietnam. In 1954, President Eisenhower wrote to President Diem of South Vietnam assuring him of American assistance in "developing and maintaining a strong, viable state, capable of resisting attempted subversion or aggression through military means."

The Southeast Asian treaty, which created the organization called SEATO was signed at Manila in September 1954 by the United States, Great Britain, France, Australia, New Zealand, Pakistan, Thailand, and the Philippines, and was approved by the U.S. Senate in 1955 by a vote of 82 to 1. That treaty protects against Communist aggression not only its members, but also anyone of the three non-Communist states growing out of former French Indochina which asks for protection.

Article IV of the SEATO treaty provides in section 1 as follows:

"ARTICLE IV

"1. Each Party recognizes that aggression by means of armed attack in the treaty area against any of the Parties or against any State or territory which the Parties by unanimous agreement may hereafter designate, would endanger its own peace and safety, and agrees that it will in that event act to meet the common danger in accordance with its constitutional processes. Measures taken under this paragraph shall be immediately reported to the Security Council of the United Nations."

Section 2 of Article IV of the SEATO treaty states that—

"2. If, in the opinion of any of the Parties, the inviolability or the integrity of the territory or the sovereignty or political independence of any Party in the treaty area or of any other State or territory to which the provisions of paragraph 1 of this Article from time to time apply is threatened in any way other than by armed attack or is affected or threatened by any fact or situation which might endanger the peace of the area, the Parties shall consult immediately in order to agree on the measures which should be taken for the common defense."

Section 3 of Article IV of the SEATO treaty states:

3. It is understood that no action on the territory of any State designated by unanimous agreement under paragraph 1 of this Article or on any territory so designated shall be taken except at the invitation or with the consent of the government concerned."

which I am trustee—as of this date, in an amount exceeding \$5,000.

These are normal investments in publicly owned corporations and constitute no element of control alone or in combination with others, directly or indirectly:

Abbott Labs. American & Foreign Securities Corp., Baxter Labs, Cenco Scientific Inst., Cities Service Corp., Control Data, Corinthian Broadcasting, Criterion Insurance Co., DuPont, Felmont Oil.

First National City Bank of New York, General Instrument, Government Employees Corp., Government Employees Financial Corp., Government Employees Insurance Co., Government Employees Life Insurance Co., South Carolina Electric & Gas Co., Southern Co., Transamerica Corp. of Delaware, Trans World Airlines, White Shield Oil & Gas.

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

The Senate resumed the consideration of the bill (H.R. 15628) to amend the Foreign Military Sales Act.

Mr. BYRD of West Virginia. Mr. President, for the information of Senators, there will not be a vote on my amendment today.

ADDITIONAL COSPONSORS

Mr. President, by some mistake, the name of the Senator from Virginia (Mr. SPONG) was left off the printed amendment yesterday.

I therefore ask unanimous consent again that the name of the Senator from Virginia (Mr. SPONG) be added as a cosponsor of amendment No. 708, and that the names of the Senator from Alabama (Mr. ALLEN), the Senator from Illinois (Mr. PERCY), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kansas (Mr. DOLE), and the Senator from Arizona (Mr. GOLDWATER) be added as cosponsors of amendment No. 708.

The PRESIDING OFFICER (Mr. SAXBE). Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, amendment No. 708, which I have offered in my own behalf and in behalf of the Senator from Michigan (Mr. GRIFFIN), the Senator from Virginia (Mr. SPONG), and other cosponsors whose names have now been stated, reads as follows:

On page 5, between lines 18 and 19, strike the period and insert the following: “, including the exercise of that constitutional power which may be necessary to protect the lives of United States Armed Forces wherever deployed”.

Mr. President, paragraph (1) of the Cooper-Church amendment now reads as follows: “retaining United States forces in Cambodia.”.

Together with certain words in the preamble, the Cooper-Church language in paragraph (1) now states:

No funds authorized or appropriated pursuant to this Act or any other law may be expended for the purpose of—

(1) retaining United States forces in Cambodia;

On June 3, I offered an amendment the purpose of which was to add the following words to the language of paragraph (1):

Except that the foregoing provisions of this clause shall not preclude the President from taking such action as may be necessary to protect the lives of United States forces in South Vietnam, or to facilitate the withdrawal of United States forces from South Vietnam.

Mr. President, my perfecting language, when added to the Cooper-Church amendment, would then have read as follows, beginning at the comma on line 4 on page 5 of H.R. 15628.

No funds authorized or appropriated pursuant to this Act or any other law may be expended for the purpose of—

(1) retaining United States forces in Cambodia, except that the foregoing provisions of this clause shall not preclude the President from taking such action as may be necessary to protect the lives of United States forces in South Vietnam, or to facilitate withdrawal of United States forces from South Vietnam;

Mr. President, my amendment upon that occasion was cosponsored by Senators GRIFFIN, STENNIS, SCOTT, HANSEN, DOLE, ALLEN, BAKER, HOLLINGS, GOLDWATER, and THURMOND.

I sought in vain, on June 10, to modify my amendment, which has been given the number 667, star print, to read as follows:

On page 5, line 7, before the semicolon insert a comma and the following: “except that the foregoing provisions of this clause shall not preclude the President from taking only such action as is necessary in the exercise of his constitutional powers and duties as Commander in Chief, to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from South Vietnam; and the President is requested to consult with Congressional leaders prior to using any United States forces in Cambodia if, as Commander in Chief, he determines that the use of such forces is necessary to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from South Vietnam.”

In view of the fact that the Senate had previously entered into a unanimous-consent agreement to vote on June 11 at 1 o'clock p.m., any modification by me of my amendment required unanimous consent. The able junior Senator from Arkansas (Mr. FULBRIGHT) objected to my unanimous-consent request that I be permitted to so modify my amendment. On June 11, during the 2 hours of debate preceding the vote at 1 o'clock p.m., on amendment No. 667, I attempted several times to modify my amendment to include the language that I have just quoted, but my unanimous-consent request was just as repeatedly objected to, and the vote at 1 o'clock p.m., occurred on amendment No. 667, star print, without the modification which I sought to make. The vote was 52 to 47 against my amendment.

Immediately following the defeat of my amendment on June 11, I announced my intention to renew, at a later date, my efforts to have the Senate consider and pass on a modified version of the amendment which had been rejected. The able majority leader then proceeded to call

up an amendment to which he had referred just prior to the Senate vote rejecting my amendment. Senator MANSFIELD's amendment, adopted by a vote of 91 to 0, was as follows:

On page 5, between lines 18 and 19, insert the following: Nothing contained in this section shall be deemed to impugn the constitutional power of the President as Commander in Chief.

Mr. President, subsequent to the date of June 11, and over the past weekend in particular, I discussed various modified versions of my amendment with at least 50 Senators. I have had several discussions about a modified version with the able assistant Republican leader, who was the chief cosponsor of amendment 667, and also with the able junior Senator from Virginia (Mr. SPONG) whose observations and questions during the debate on amendment No. 667, star print, were most helpful and incisive, and which I think pointed to some weaknesses in the verbiage of that amendment.

I have personally visited with many Senators; I have talked with them on the telephone; I have talked with them in their offices and in my office; and a modification has been drawn, redrawn, drawn again, and redrawn a number of times until finally the modification which is before the Senate was agreed on. In the course of those discussions, I also discussed the modification with the able authors of the Cooper-Church amendment, and with the majority leader. I think that those discussions with the Senator from Kentucky (Mr. COOPER), the Senator from Idaho (Mr. CHURCH), and the Senator from Montana (Mr. MANSFIELD) were, indeed, exceedingly helpful in pointing the way to a modified version which, in the judgment of all of us, apparently will do what all of us want to do; namely, assure our fighting men in Vietnam, their relatives and friends in this country, the American people, in general, as well as the enemy that the Senate does not intend by anything it says or does to prevent whatever is necessary to be done to protect the lives of American servicemen wherever they are deployed.

We all want to do this; we all have wanted to do this from the beginning, but I think the version of the amendment which is now before the Senate, while it may not have the unanimous support of all Senators, is one which does represent a pretty fair consensus of viewpoints among Senators on both sides of the aisle and on both sides of the overall issue before the Senate with respect to the Cooper-Church amendment.

So yesterday, on behalf of the Senator from Michigan (Mr. GRIFFIN) and the Senator from Virginia (Mr. SPONG), I offered this modified version of my previously rejected amendment, and at that time I asked that the modified version be stated by the clerk, printed, and that it lie on the table. The modified version, which has been given the number 708, reads as follows, and I have read it, but I shall read it again:

On page 5, between lines 18 and 19, strike the period and insert the following: “, including the exercise of that constitutional power which may be necessary to protect

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Foreign Military Sales: Senate continued consideration of H.R. 15628, relating to the establishment of foreign military sales, rejecting, by 38 yeas to 43 nays (motion to reconsider tabled), Dominick amendment No. 689 (to committee amendment No. 3), increasing from \$35 to \$150 million annual ceiling for excess defense articles which may be given to our allies under the military assistance program.

Pending at adjournment was Byrd of West Virginia amendment No. 708, [to provide that nothing in proposed provisions barring funds for retaining U.S. forces in Cambodia (Church-Cooper amendment) shall preclude the President as Commander in Chief to exercise his constitutional power which may be necessary to protect U.S. Armed Forces wherever deployed.] Under unanimous-consent agreement, a yeas and nays vote will be taken on this amendment at 2 p.m., on Monday, June 22, debate after 1 p.m. on that date to be equally divided by Senators Byrd of West Virginia and Church of their designees.

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June 18, 1970

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The amendment which I have now offered, if adopted by the Senate, when added to the verbiage contained in the Mansfield amendment—and they must be read together—would read as follows:

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Here on the Senate floor we are witnessing a renewed and vigorous debate, which, for some weeks, has been centered upon the so-called Cooper-Church amendment to the Foreign Military Sales Act, H.R. 15628.

Before directing my attention to the Cooper-Church amendment, I wish briefly to state the position I have maintained during the years of American involvement in South Vietnam. Throughout my service in the Senate—the beginning of which service antedates the start of direct American participation in the fighting—I have said very little on the Senate floor or in West Virginia or anywhere else concerning the war in South Vietnam. I have considered myself neither "hawk" nor "dove," to use the common labels. I have, however, supported all appropriations bills providing for the support, the equipping, and the pay of American servicemen in Vietnam. If this makes me a "hawk," it would also characterize practically every sitting Senator as a "hawk" inasmuch as those Senators who have opposed appropriations for the conduct of the war can be numbered on the fingers of one hand, and at least two of these Senators were defeated in subsequent elections.

In supporting appropriations for the war in Vietnam, I have taken the position—and most Senators have apparently viewed the matter likewise—that as long as our country sends men to fight in a foreign land, we ought not be niggardly in appropriating adequate funds for clothing, military pay, ammunition, weapons, and other military hardware, because the least we can do in fulfilling our duty to those fighting men is to provide them with the kind of financial and military support that will enable them to fulfill their military responsibilities and to return home safely.

As to whether or not our country was right in becoming involved, perhaps only future historians will be able to render an objective and fair judgment. It was the view of our leaders—meaning the Chief Executive and his military and civilian advisers—in the previous administrations of Presidents Eisenhower, Kennedy, and Johnson, and now under the administration of President Nixon, that it was in America's best interest that South Vietnam not be taken over by the Communists. Our Government took the position that if South Vietnam were to fall to the Communists, then all of Southeast Asia could and probably would, eventually fall, thus turning over to the Communists

a vast area of 200 million people and rich mineral resources.

It was the view of our leaders that the fall of Southeast Asia to the Communists would be a blow to the free world and that America should help to prevent this from happening.

It was also stated that if America did not act, the Communists would interpret this failure to act as a sign of weakness and that wars of so-called "national liberation" would break out in various other parts of the world.

Gen. Vo Nguyen Giap, the top commander of the North Vietnam military forces, was quoted as saying:

"South Vietnam is the model of the national liberation movement of our time. If the United States can be defeated in South Vietnam, it can be defeated everywhere in the world."

The Peiping Peoples Daily, the foremost Chinese Communist newspaper was quoted as saying that the Vietnamese conflict "is the focal point of the international class struggle" and is the "acid test for all political forces in the world." Thus, it was made to appear that South Vietnam was a "test case, a landmark case."

The leaders of our Government, moreover, have proceeded on the premise that we had made commitments to go to the aid of South Vietnam. In 1954, President Eisenhower wrote to President Diem of South Vietnam assuring him of American assistance in "developing and maintaining a strong, viable state, capable of resisting attempted subversion or aggression through military means."

The Southeast Asian treaty, which created the organization called SEATO was signed at Manila in September 1954 by the United States, Great Britain, France, Australia, New Zealand, Pakistan, Thailand, and the Philippines, and was approved by the U.S. Senate in 1955 by a vote of 82 to 1. That treaty protects against Communist aggression not only its members, but also anyone of the three non-Communist states growing out of former French Indochina which asks for protection.

Article IV of the SEATO treaty provides in section 1 as follows:

"ARTICLE IV

"1. Each Party recognizes that aggression by means of armed attack in the treaty area against any of the Parties or against any State or territory which the Parties by unanimous agreement may hereafter designate, would endanger its own peace and safety, and agrees that it will in that event act to meet the common danger in accordance with its constitutional processes. Measures taken under this paragraph shall be immediately reported to the Security Council of the United Nations."

Section 2 of Article IV of the SEATO treaty states that—

"2. If, in the opinion of any of the Parties, the inviolability or the integrity of the territory or the sovereignty or political independence of any Party in the treaty area or of any other State or territory to which the provisions of paragraph 1 of this Article from time to time apply is threatened in any way other than by armed attack or is affected or threatened by any fact or situation which might endanger the peace of the area, the Parties shall consult immediately in order to agree on the measures which should be taken for the common defense."

Section 3 of Article IV of the SEATO treaty states:

3. It is understood that no action on the territory of any State designated by unanimous agreement under paragraph 1 of this Article or on any territory so designated shall be taken except at the invitation or with the consent of the government concerned."

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which I am trustee—as of this date, in an amount exceeding \$5,000.

These are normal investments in publicly owned corporations and constitute no element of control alone or in combination with others, directly or indirectly:

Abbott Labs, American & Foreign Securities Corp., Baxter Labs, Cenco Scientific Inst., Cities Service Corp., Control Data, Corinthian Broadcasting, Criterion Insurance Co., DuPont, Felmont Oil.

First National City Bank of New York, General Instrument, Government Employees Corp., Government Employees Financial Corp., Government Employees Insurance Co., Government Employees Life Insurance Co., South Carolina Electric & Gas Co., Southern Co., Transamerica Corp. of Delaware, Trans World Airlines, White Shield Oil & Gas.

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

The Senate resumed the consideration of the bill (H.R. 15628) to amend the Foreign Military Sales Act.

Mr. BYRD of West Virginia. Mr. President, for the information of Senators, there will not be a vote on my amendment today.

ADDITIONAL COSPONSORS

Mr. President, by some mistake, the name of the Senator from Virginia (Mr. SPONG) was left off the printed amendment yesterday.

I therefore ask unanimous consent again that the name of the Senator from Virginia (Mr. SPONG) be added as a cosponsor of amendment No. 708, and that the names of the Senator from Alabama (Mr. ALLEN), the Senator from Illinois (Mr. PERCY), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kansas (Mr. DOLE), and the Senator from Arizona (Mr. GOLDWATER) be added as cosponsors of amendment No. 708.

The PRESIDING OFFICER (Mr. SAXBE). Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, amendment No. 708, which I have offered in my own behalf and in behalf of the Senator from Michigan (Mr. GRIFFIN), the Senator from Virginia (Mr. SPONG), and other cosponsors whose names have now been stated, reads as follows:

On page 5, between lines 18 and 19, strike the period and insert the following: “, including the exercise of that constitutional power which may be necessary to protect the lives of United States Armed Forces wherever deployed”.

Mr. President, paragraph (1) of the Cooper-Church amendment now reads as follows: “retaining United States forces in Cambodia;”.

Together with certain words in the preamble, the Cooper-Church language in paragraph (1) now states:

No funds authorized or appropriated pursuant to this Act or any other law may be expended for the purpose of—

(1) retaining United States forces in Cambodia;

On June 3, I offered an amendment the purpose of which was to add the following words to the language of paragraph (1):

Except that the foregoing provisions of this clause shall not preclude the President from taking such action as may be necessary to protect the lives of United States forces in South Vietnam, or to facilitate the withdrawal of United States forces from South Vietnam.

Mr. President, my perfecting language, when added to the Cooper-Church amendment, would then have read as follows, beginning at the comma on line 4 on page 5 of H.R. 15628.

No funds authorized or appropriated pursuant to this Act or any other law may be expended for the purpose of—

(1) retaining United States forces in Cambodia, except that the foregoing provisions of this clause shall not preclude the President from taking such action as may be necessary to protect the lives of United States forces in South Vietnam, or to facilitate withdrawal of United States forces from South Vietnam;

Mr. President, my amendment upon that occasion was cosponsored by Senators GRIFFIN, STENNIS, SCOTT, HANSEN, DOLE, ALLEN, BAKER, HOLLINGS, GOLDWATER, and THURMOND.

I sought in vain, on June 10, to modify my amendment, which has been given the number 667, star print, to read as follows:

On page 5, line 7, before the semicolon insert a comma and the following: “except that the foregoing provisions of this clause shall not preclude the President from taking only such action as is necessary in the exercise of his constitutional powers and duties as Commander in Chief, to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from South Vietnam; and the President is requested to consult with Congressional leaders prior to using any United States forces in Cambodia if, as Commander in Chief, he determines that the use of such forces is necessary to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from South Vietnam.”

In view of the fact that the Senate had previously entered into a unanimous-consent agreement to vote on June 11 at 1 o'clock p.m., any modification by me of my amendment required unanimous consent. The able junior Senator from Arkansas (Mr. FULBRIGHT) objected to my unanimous-consent request that I be permitted to so modify my amendment. On June 11, during the 2 hours of debate preceding the vote at 1 o'clock p.m., on amendment No. 667, I attempted several times to modify my amendment to include the language that I have just quoted, but my unanimous-consent request was just as repeatedly objected to, and the vote at 1 o'clock p.m., occurred on amendment No. 667, star print, without the modification which I sought to make. The vote was 52 to 47 against my amendment.

Immediately following the defeat of my amendment on June 11, I announced my intention to renew, at a later date, my efforts to have the Senate consider and pass on a modified version of the amendment which had been rejected. The able majority leader then proceeded to call

up an amendment to which he had referred just prior to the Senate vote rejecting my amendment. Senator MANSFIELD's amendment, adopted by a vote of 91 to 0, was as follows:

On page 5, between lines 18 and 19, insert the following: Nothing contained in this section shall be deemed to impugn the constitutional power of the President as Commander in Chief.

Mr. President, subsequent to the date of June 11, and over the past weekend in particular, I discussed various modified versions of my amendment with at least 50 Senators. I have had several discussions about a modified version with the able assistant Republican leader, who was the chief cosponsor of amendment 667, and also with the able junior Senator from Virginia (Mr. SPONG) whose observations and questions during the debate on amendment No. 667, star print, were most helpful and incisive, and which I think pointed to some weaknesses in the verbiage of that amendment.

I have personally visited with many Senators; I have talked with them on the telephone; I have talked with them in their offices and in my office; and a modification has been drawn, redrawn, drawn again, and redrawn a number of times until finally the modification which is before the Senate was agreed on. In the course of those discussions, I also discussed the modification with the able authors of the Cooper-Church amendment, and with the majority leader. I think that those discussions with the Senator from Kentucky (Mr. COOPER), the Senator from Idaho (Mr. CHURCH), and the Senator from Montana (Mr. MANSFIELD) were, indeed, exceedingly helpful in pointing the way to a modified version which, in the judgment of all of us, apparently will do what all of us want to do; namely, assure our fighting men in Vietnam, their relatives and friends in this country, the American people, in general, as well as the enemy that the Senate does not intend by anything it says or does to prevent whatever is necessary to be done to protect the lives of American servicemen wherever they are deployed.

We all want to do this; we all have wanted to do this from the beginning, but I think the version of the amendment which is now before the Senate, while it may not have the unanimous support of all Senators, is one which does represent a pretty fair consensus of viewpoints among Senators on both sides of the aisle and on both sides of the overall issue before the Senate with respect to the Cooper-Church amendment.

So yesterday, on behalf of the Senator from Michigan (Mr. GRIFFIN) and the Senator from Virginia (Mr. SPONG), I offered this modified version of my previously rejected amendment, and at that time I asked that the modified version be stated by the clerk, printed, and that it lie on the table. The modified version, which has been given the number 708, reads as follows, and I have read it, but I shall read it again:

On page 5, between lines 18 and 19, strike the period and insert the following: “, including the exercise of that constitutional power which may be necessary to protect

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and to a problem of teamwork within the management. Investigation may suggest that these factors are the crucial ones as the cause of the current difficulties.

However, there is a much broader and more valid set of causes, and it is to these other causes that transportation leaders in and out of Government should promptly consider resolving through meaningful reform. Thoughtful students of the railroad industry for the past 20 years have repeatedly and consistently concluded that the industry's problems were basic and would eventually bring us to the point when it would be necessary to ask whether we prefer meaningful reform or Government ownership. They have concluded that reform is necessary, feasible, and far preferable to the consequences of nationalization of the railroad industry, and I strongly concur with this.

The basic problems are in the relationship of the industry to Federal and State government, the relationship to organized labor, and the challenge of attracting large amounts of urgently needed capital for modernization and technological improvement in spite of very poor earnings in terms of return on investment. With these three basic relationships presenting the difficulty, and continuing to be unresolved, the impact of inflation and the so-called crisis in liquidity combined to bring Penn Central into bankruptcy. It is no exaggeration to say that Penn Central and its two big predecessors have already experienced in great concentration and degree practically all of the difficulties and problems of the railroad industry.

Regulations drawn up originally to deal with different competitive circumstances must be modernized to reflect the plain fact that railroads are now highly competitive, not monopolies. Second, public financing of transportation facilities, such as airways, highways, and waterways must be extended also on an equitable and balanced basis to railroads. Public financing for transportation facilities has exceeded \$15 billion annually for at least 15 years, with virtually no such public financing for railways. Railroad managements, if we are to leave them in private enterprise and subject them to the disciplines of our economic system, must be given a degree of freedom of management consistent with the financial responsibility which we expect them to carry.

This means that there must be a new relationship worked out between the railroads and their Government, so that they can respond to the challenges of our full economy in much the same fashion as managers of other businesses, rather than with restraints more appropriate to the old monopoly days which are long gone.

The public interest requires that we in Government direct our early attention to progress on the basic problems and remember that there are quite a number of major railroads in serious financial difficulty even though they have not merged, have not diversified, and in the judgment of most experts are not afflicted with undue size or poor manage-

ment. The public interest also requires us to act promptly on a major reform program that will hopefully maintain our railroad industry in private enterprise on a basis which will permit it to once again resume its historic role of major carriers growing with the country and preparing to do its full share in an efficient and balanced transportation system.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon, at 10:56 a.m., the Senate took a recess subject to the call of the Chair.

The Senate reassembled at 12 noon, when called to order by the Presiding Officer (Mr. TALMADGE).

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

The PRESIDING OFFICER (Mr. TALMADGE). The hour of 12 noon having arrived, the Chair lays before the Senate the unfinished business which the clerk will state.

The BILL CLERK. A bill (H.R. 15628) to amend the Foreign Military Sales Act. The Senate resumed consideration of the bill.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

The PRESIDING OFFICER (Mr. TALMADGE). Without objection, it is so ordered.

Thereupon, at 12:01 p.m., the Senate took a recess subject to the call of the Chair.

At 12:40 p.m., the Senate reassembled when called to order by the Presiding Officer (Mr. NELSON).

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

The Senate continued the consideration of the bill (H.R. 15628) to amend the Foreign Military Sales Act.

AMENDMENT NO. 708

Mr. FULBRIGHT. Mr. President, I wish to say a word or two about the pending amendment. I intend to ask to have printed in the RECORD an article published in the Washington Post of yesterday by Mr. Paul Warnke and Mr. Townsend Hoopes, both of whom were formerly Assistant Secretaries of Defense, and have written an interpretation of what the recent developments in Vietnam and Cambodia mean.

But first, with regard to the pending amendment offered by the Senator from West Virginia (Mr. BYRD), I regret that I am unable to vote for it. I shall ask the indulgence of the Senate and vote "Present," not because I attribute to the language the meaning which I am sure some will attribute to it, that it nullifies and neutralizes the Church-Cooper amendment, but because I think it will inevitably lead to misunderstanding and confusion.

It is generally assumed that the Senate—a body which is of some significance under our constitutional system—does not engage in idle gestures or spend many hours debating language which is of no significance; so I am sure that people will search for some significance in this language. They will try to attribute to it some meaning. If there is any meaning to it, it is certainly intended to water down the Church-Cooper amendment.

That, of course, was the purpose of the original Byrd amendment upon which we voted about 10 days or 2 weeks ago; it sought to neutralize the first section of the Church-Cooper amendment—in other words, to leave the President free to reenter Cambodia at any time he pleased.

This was how it was interpreted at the time. I think the significance of the vote in the Senate was that we did not wish to do that.

It is said by some who have agreed to accept the present Byrd amendment that it does not affect the power of the purse, that is, the appropriation of money. But I can imagine, if we adopt it, particularly the last two words of it, it will be interpreted that the President, as Commander in Chief, has the constitutional power to deploy the troops wherever he wishes. That is not written into it, but that is a possible interpretation.

I still believe that a return to the constitutional roles of the executive and the legislative branches is the only hope for the reestablishment of order in this country. Therefore I do not wish to vote for something that can be said to be meaningless, and yet will also be interpreted by others, who wish to so interpret it, as having some significance. It is generally felt, after all, that we do not engage in attaching amendments which have no meaning.

The Constitution speaks for itself. An amendment of this kind cannot change the Constitution. To try to redefine what the constitutional powers of the Presi-

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dent are in an amendment of this kind is certainly, in my view, an act of futility. Therefore, I want the Record to be very clear that I do not regard this language, which I am told will be accepted, as having any substantive effect upon the Cooper-Church amendment. I would vote for it, except that I am afraid my vote would be misunderstood by those who read only the headlines, or read only how we voted. I am afraid that my own constituents and others might interpret my vote to mean that I have changed my mind, in voting for an amendment which is, after all, essentially the same amendment which I participated in defeating 10 days ago.

I do not wish to confuse or influence others who interpret it in a different way; therefore, I ask that I be permitted to vote "present." I shall not vote against it only out of consideration for some of my colleagues who differ with me as to what it means. If it means nothing, it should not be agreed to. If it means something, it means that of which I do not approve.

Mr. President, the article which I mentioned a moment ago, while it does not relate to the Byrd amendment, most definitely does relate to the Cambodian affair. It relates to the sum and substance of that with which the Church-Cooper amendment is intended to deal. Therefore, I make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. FULBRIGHT. At what point does one draw the line as to what is germane and what is not? The article I have in mind, on which I wish to comment, deals with the substance of the Church-Cooper amendment. Does that make it germane or not?

The PRESIDING OFFICER (Mr. NELSON). The Chair would have to hear what the substance of the article was, in order to make the ruling.

Mr. FULBRIGHT. Well, we have a rule. It seems to me that under the rule, the Chair must rule as to whether it is germane or not germane. In my own view, it is germane because it deals with the subject matter of the Church-Cooper amendment. The Church-Cooper amendment is concerned with keeping the President from ordering troops back into Cambodia. Therefore, it is concerned with whether or not this war can be brought ultimately to a conclusion by a negotiated settlement, and whether or not the expansion of the war in Cambodia is a real expansion of the war, and an enlargement of it. Therefore, it seems to me an article dealing directly with that question would be germane.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. FULBRIGHT. Certainly.

Mr. BYRD of West Virginia. Mr. President, based on what the able Senator has said, I do not think there is any Senator who would be inclined to question the germaneness of whatever he wishes to insert in the Record. Therefore, I intend to interpose no objection.

Mr. FULBRIGHT. Very well. Mr. President, in the Washington Post of June 21, there appeared what I consider to be a

germane and profound discussion of the administration's policy in Southeast Asia. Mr. Townsend Hoopes and Mr. Paul Warnke are well informed about the situation in Southeast Asia, both having spent a number of years studying it as Assistant Secretaries of Defense. They are now, however, free of the restraint which a member of the administration feels, and are free to speak frankly about the matter.

The discussion demonstrates that the present actions in Southeast Asia are not designed to achieve a disengagement and an end to the war on a negotiated basis, but, on the contrary, that they are intended to make the war acceptable and tolerable to the American people, and to continue it indefinitely.

Therefore, I ask unanimous consent to have printed in the Record the article entitled "Nixon Is Really Just Digging In," written by Townsend Hoopes and Paul C. Warnke, and published in the Washington Post of Sunday, June 21, 1970.

There being no objection, the article was ordered to be printed in the Record, as follows:

NIXON IS REALLY JUST DIGGING IN

(By Townsend Hoopes and Paul C. Warnke)

President Nixon's speech of June 3 has now made undisguisably clear the aim of his Vietnam policy. It is not a total withdrawal of U.S. forces in the next 12 to 18 months, or even in the foreseeable future; nor does it involve a willingness to accept the consequences of the free play of political forces in Indochina. Mr. Nixon's Vietnam policy involves three basic elements:

Endeavoring to reduce U.S. forces to that level which, in his judgment, will be politically acceptable to American public opinion.

Striving to strengthen ARVN (the South Vietnamese army) to a point where, in collaboration with remaining U.S. forces, an unacceptable military posture can be permanently assured.

Hoping to force Hanoi to recognize the enduring nature of that posture, thereby inducing Hanoi to negotiate a settlement in Paris on present U.S. terms.

Behind a smokescreen of ambiguity, that is now the clear shape of the Nixon policy. It is confirmed by the surfacing of U.S.-subsidized Thai "volunteers" for Cambodia and by the lack of administration resistance to indications that ARVN will continue its Cambodian operations indefinitely.

It has been supposed that of the three major considerations said to have produced the April 30 Cambodia decision, what counted most was the concern that continued American force withdrawals depended on "cleaning out the sanctuaries." Even in that context, the Cambodian border crossings were pre-emptive strikes designed not to meet an immediate threat but to reduce enemy capabilities in the area for four to six months, thereby buying time for the "further strengthening" of ARVN.

No doubt that was the thrust of Gen. Creighton Abrams' view (which suggests how unreliable and unpromising ARVN is really regarded by the U.S. command, beneath all the chamber of commerce ebullience about Vietnamization). The President on June 3 made this view his own official explanation for the decision to strike Cambodia.

However, this explanation looks like an after-the-fact rationalization invented by Defense Secretary Melvin Laird. For as Stewart Alsop's look at the President's yellow pad (Newsweek, June 1) made quite clear, Mr. Nixon is still tilting with "international

communism" in Southeast Asia and his chief concern on April 30 was that Cambodia might go Communist.

The most revealing point on the yellow pad was the Nixon concern that, if neither side moved, an "ambiguous situation" might arise in Cambodia which would make it very difficult for the United States to hit the sanctuaries—i.e., we would be charged by international opinion with attacking a neutral convention and the degree of disarray special scrutiny.

Specifically his conclusion on June 3 that activities in the Cambodian sanctuaries between April 20 and April 30 "posed an unacceptable threat to our remaining forces in South Vietnam" is belied by Laird's statement to newsmen that the attacks represented "an opportunity" because the North Vietnamese in Cambodia, unsettled by the Lon Nol coup, were at that time facing west. More generally, his concern to act precipitately would seem to reflect a failure to understand that in limited war, there are sanctuaries by definition.

Why attack Cambodia rather than Laos or across the DMZ? Why refuse to acknowledge that a certain mutual respect for sanctuaries is what has kept U.S. air bases in Thailand essentially free from sapper attacks?

There is a further point. One would have supposed that a President who had publicly eschewed the prospect of military victory and who was conducting a strategic withdrawal had long since made the judgment that the particular coloration of petty nongovernments in Southeast Asia did not affect the serious interests of the United States. A statesman who had in fact decided that a genuine U.S. extrication from the area was necessary would indeed be at pains to foster "ambiguous situations." He would go out of his way to avoid a clear-cut Communist-anti-Communist polarization.

THAT "JUST PEACE"

Mr. Nixon's quite opposite concerns and actions tell us something very important. With respect to Vietnamization, Secretary of State William P. Rogers and Laird have consistently run ahead of the President with their clear implication that the program is primarily a vehicle for total U.S. extrication (even though the war might continue after our forces were gone). Mr. Nixon, however, has always insisted that Vietnamization will lead to a "just peace" and an end to the war.

On June 3, he said categorically: "I have pledged to end this war. I shall keep that pledge." These have been puzzling assertions, since all signs indicate that even successful Vietnamization (i.e., a transfer of the entire military burden to ARVN) could produce nothing better than interminable war. The speech of June 3 and the revelations of the yellow pad now make these assertions a good deal less puzzling.

They show that what Mr. Nixon means by a "just peace" is Hanoi's recognition of a permanent position of U.S.-ARVN military strength in South Vietnam. Since even the White House has in various ways revealed that it has no illusions about ARVN's ability to go it alone, it is a fair inference from a series of official statements that a "just peace" will require the indefinite retention of something in the neighborhood of 200,000 U.S. troops as well as indefinite support for the Thieu regime.

How Mr. Nixon plans to make these requirements politically palatable at home is not yet clear. Until recently he had kept both his aims and his formulations artfully vague, but now the fig leaf has fallen away.

The difficulty with this vision of the future is that it is a gossamer dream on at least two counts: (1) On all the evidence, the American people are not prepared to sustain a sizable military commitment in Vietnam for an indefinite period, especially under conditions that require our forces to go on

winning victory after meaningless victory in the pattern of the past five years; and (2) there is absolutely nothing in the history of the Vietnam war (or in the present or prospective power balance there) to indicate that Hanoi will come to terms with the Thieu regime.

If Mr. Nixon and his advisers really believe that they can force a settlement in Paris on present U.S. terms, then they remain deluded about the most fundamental political-military realities in Vietnam; they also fail to grasp how very narrow are the margins of domestic tolerance for their conduct of the old war, not to mention the new and wider war they have now arranged.

Negotiations in Paris have failed chiefly because our political aims exceed our bargaining power. Hanoi is not prepared to accept arrangements for elections worked out under the auspices of the Thieu government and in which the winner would take all; and the U.S.-ARVN military position, even at the point of its maximum strength, was not sufficient to compel Hanoi to bargain on our terms. The departure of 110,000 U.S. troops and the promised withdrawal of another 150,000 hardly strengthen our military position.

A VULNERABLE PROCESS

Thus strapped to a negotiating position that cannot succeed, Mr. Nixon is thrown back upon Vietnamization. But owing to the very uncertain qualities of ARVN and to the President's unstated (but now undisguisable) insistence that our proxy regime must be permanently secured, the process of American withdrawal is necessarily slow and ambiguous.

Its lingering nature makes it vulnerable to unanticipated intervening events, like the Lon Nol coup, which knock it off balance and create new pressures for compensatory military action—pressures which Mr. Nixon promptly translates into "opportunities" in the permanent holy war against communism. Its conditional nature—the unspoken determination to hang in there until we have ended the war in a "just peace"—precludes a negotiated settlement and also works against a tacit understanding with the other side with regard to lowering the level of violence.

In this mushy situation, the war is considerably enlarged, and with it, American responsibility for the Cambodian government. The setting in motion of imponderable new political forces (in Phnom Penh, Vientiane, Bangkok, Saigon, Hanoi, Peking, Moscow and Washington) indicates that the struggle in Cambodia will be protracted, will probably spread, will reopen old tribal hatreds and will continue to involve us in situations which the American presence can aggravate but can do nothing to resolve.

Meanwhile, American force withdrawals continue, impelled by domestic pressures. As they do, the truth is borne in upon the administration that the gradual and unnegotiated character of the reductions cannot, below certain levels, assure the safety of the remaining forces.

This unfolding denouement requires that the American people wake up to the self-deception and bankruptcy of the Nixon policy in Vietnam, for it is now a matter of the utmost urgency to bring policy into accord with realities both in Indochina and at home. Our transcendent need at this juncture is for leadership in the White House—and if that is not possible, then in Congress—with the scale of mind and the inner firmness to explain the real choices facing the country.

The task is to lead public opinion toward an understanding that a Vietnam policy based upon these realities is consistent with our national interest, can be carried forward without a traumatic loss of self-confidence and need not cause a lapse into mindless isolation—above all, that such action is infinitely preferable to continued self-deception.

PERSISTENT RHETORIC

We are not getting that leadership. President Nixon seems somewhere between believing in the essential rightness of the war and understanding that the American interest requires its liquidation. He has evolved a policy of substantially reducing, but not ending, the American role.

At the same time, he has been unwilling to abandon the rhetoric that supported our intervention in the first place. One must conclude that either he genuinely believes the rhetoric or is afraid to risk, through candor, even a transient loss of national prestige for the sake of a healthy adjustment to the facts.

Viewed in the light of the political situation in the United States and the military situation in Indochina, the Nixon policy is a grab bag of contradictions, illusions and expedient actions. It seeks objectives that are unattainable while warning that acceptance of anything less would mean "humiliation and defeat for the United States." The increasingly visible gulf between this martial bravado and the known facts is producing a form of official schizophrenia; if unchecked, it could lead to a national nervous breakdown.

Worse still, if the President really does believe his own rhetoric, there is the predictable danger that he will feel compelled to take action more drastic than the Cambodian strikes in certain foreseeable situations—e.g., after U.S. forces have been further reduced but there has been no corresponding improvement of ARVN and no corresponding deterioration of North Vietnamese capability. Indeed, the looming probability of just such a crunch is what makes it imperative for the country to face the realities now while there is still time for dignified, rational, deliberate choice.

If we continue down Mr. Nixon's path, we could easily reach a situation which seriously threatened the safety of our remaining forces. At that point, we would face a constricted choice between immediate escalation and immediate liquidation. Can anyone believe a wise decision could be made in such circumstances? Given the divisiveness, the frayed nerves and the general distemper that now define our national mood, does anyone have confidence that our political system would not be grievously shaken by the consequences of either choice?

THREE MAJOR POINTS

It is now obvious that Mr. Nixon missed a golden opportunity, during the honeymoon period of early 1969, to lead the country firmly away from a decade of self-deception by beginning to uncoil the contradictions and restore the national balance. He could have taken definitive steps toward liquidating the war and binding up the national wounds.

He could have done this without political risk to himself and indeed with positive benefit for his party and the cause of national unity. Though time is running out, it is still not too late for someone—preferably, of course, the President—to take up this vital task. Three points need to be explained to the American people with absolute clarity.

1. That after five years of major combat, we have done about as much as any outside power could do to shore up the government of South Vietnam;

2. That the tangled political issues which divide Vietnam, growing as they do out of long colonial repression and the ensuing struggle to define a national identity, can only be settled among the Vietnamese themselves;

3. That, contrary to the erroneous assumption on which U.S. military intervention was based, the particular constitutional form and the particular ideological orientation of Vietnamese (and Indochinese) politics do not affect the vital interest of the United States.

Adoption of such a posture would lead

directly (a) to a policy of deliberate, orderly, unswerving and total withdrawal of U.S. forces to be completed not later than the end of 1971; and (b) thus to circumstances that could bring about a serious negotiation based on our declared intention to depart.

This kind of negotiation would not be unconditional. We would require the return of our prisoners and the safe withdrawal of all our forces; we would seek at the same time to provide, with Russian and other outside assistance, for the restoration of neutrality at least in Cambodia and Laos, and hopefully in Vietnam as well. This approach is fully consistent with plans put forward at different times by Averell Harriman and Clark Clifford.

It must be faced, however, that the Nixon decision to strike Cambodia has moved us further away from the chances of political settlement. For that act has surely deepened Hanoi's suspicion that we do not intend to leave while it has reinforced Saigon's natural resistance to compromise. In addition, of course, it has put into our laps the problem of working out the political future of yet another country.

GIANT IN QUICKSAND

Nevertheless, it does not seem impossible that steady, candid, clearheaded leadership, based squarely upon the three points set down above, could steer the American Leviathan through the dangerous transition without running the ship aground or producing general hysteria. For one thing, there is really no choice about leaving Vietnam; for another, there are enormous advantages ahead if we can by skill and steady nerves make a safe and sane passage.

To change the metaphor, Mr. Nixon's "pitiful giant" of April 30 is pitiful chiefly because his leg is in quicksand up to the mid thigh and because he is unresolved about its extrication. But the military, economic and psychological advantages of removing the leg are demonstrable.

With two feet on solid ground again, the country would regain its global poise. Our influence and power would not evaporate. We would not be rendered incapable of defining and defending our legitimate interests. On the contrary, our ability to reassure our NATO and Japanese treaty partners, and our capacity to exert a steadying influence on the smoldering situation in the Middle East, could only be enhanced. Our industrial, technical and cultural achievements would continue to astound and attract the world.

At home, we desperately need a breathing space in which to redefine our vital interests, our military strategy, our basic relationships with the rest of the world. We are still operating essentially within the frame of a foreign policy worked out in the late 1940s.

The main tenets of that policy were strong and valid for their time, but they are now badly in need of revision; among other things, they fail to reflect the fragmentation of the "Communist bloc," the recovery of Europe and the deep divisions in our own society that call for drastic realignment of national priorities. We cannot gain the breathing space, we cannot reconcile the younger generation, we cannot construct a reasoned self-appraisal until the Indochina enterprise is liquidated.

It is important that the American people understand what is going on so that they can effectively assert their right to a policy consistent with their interests.

Mr. COOPER. Mr. President, may I have the attention of the Senator from West Virginia?

Mr. BYRD of West Virginia. Mr. President, will the Senator yield for a quorum call, with the understanding that he not lose his right to the floor?

Mr. COOPER. Yes.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

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The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.
Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COOPER. Mr. President, I have heard the remarks of the distinguished Senator from Arkansas (Mr. FULBRIGHT), and I can understand that the questions he has voiced have arisen in the minds of many Senators about the pending amendment. I shall develop at this time the history of the debate which has brought us to a vote on this amendment.

Mr. President, the question before the Senate today is whether the second Byrd amendment, now pending, should be adopted. In my view, support of the amendment by the sponsors and supporters of the Cooper-Church amendment, which the second Byrd amendment would amend, depends upon its interpretation and the effect which its sponsors intend that it shall have upon the purposes of the Cooper-Church-Aiken-Mansfield amendment.

I shall try to narrow this issue as simply as I can by reviewing the background of the debate in the Senate over Cooper-Church.

A principal purpose of the Cooper-Church amendment, as its sponsors have declared so often, is to prevent the United States from being engaged in a new war in Southeast Asia for the protection of Cambodia—a country to which the United States owes no obligation of any kind.

A second purpose is to prevent the United States from becoming engaged in an expanded Vietnam war—in a new country and new theater—Cambodia, when the announced policy of the United States is to disengage.

I assume that the Members of the Senate support the President's declared purpose to end American participation in the war in Vietnam. Many of us support his policy of ending American participation in the war, either through negotiation or by Vietnamization.

The sponsors of Cooper-Church drew the amendment to become effective July 1, 1970, the day following President Nixon's announced schedule for the withdrawal of all American forces from Cambodia. Our amendment is not intended to affect and could not affect in any way the U.S. military operation in Cambodia until July 1, 1970. But I want to make it clear again that our amendment intends that after July 1, 1970, there shall be no entry of U.S. forces, or other forces employed by the United States, into Cambodia to extend the Vietnam war into Cambodia or engage in a new war for Cambodia without the consent of Congress.

We are asserting the constitutional authority of Congress. We do not deny categorically that it is possible that the United States might become engaged in combat activities in Cambodia. We only say that the United States shall not become so engaged again in combat activities without the approval of Congress.

The opponents of Cooper-Church have asserted one chief argument during the debate. The argument is basically that the Cooper-Church amendment denies to the President his constitutional authority to protect the Armed Forces of the United States. This argument is contradictory on its face, for his authority as Commander in Chief to protect the Armed Forces of the United States is constitutional; Congress cannot take away this right.

The sponsors of the Cooper-Church amendment know as well as its opponents that the President, as Commander in Chief, has constitutional authority to protect the Armed Forces of the United States, on or under the seas, in the air, in Vietnam, in Cambodia, or wherever they are, and we have stated our recognition of this authority during the debate. But we have insisted, and insist now, that the opponents of our amendment or others shall not attempt to use language, or the interpretation of language, as the means of giving advance approval to any decision the President might make beyond his constitutional right and duty of protecting our forces.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. COOPER. I should like to finish my remarks, because this is the only chance I will have to finish my statement. I will yield, however.

Mr. FULBRIGHT. I did not know whether the Senator was going to finish.

I wanted to pay some attention to this aspect of the matter: Granted that this amendment does not have any effect upon the Constitution in the constitutional sense, if it is adopted, it will be used by its sponsors in influencing the opinion of Senators and Congress on the question of appropriations. The final sanction for the Cooper-Church amendment or any other amendment really is the appropriation of funds.

Mr. COOPER. That is correct; it depends on the denial of appropriation of funds.

Mr. FULBRIGHT. What is happening here is that this phraseology is being used to make it appear—and some are saying—that it has no constitutional significance, and so forth. But it has political significance, and it obviously is intended to nullify, so far as it can, the Cooper-Church amendment. How will that be? Not because of some professor in Harvard ruling that it has no constitutional effect, but by votes that take place in the Senate and in the House. By voting for it unanimously, as some papers say you are going to, you are laying the groundwork for the next step, which is that you cannot possibly deny the money for this operation, when that vote comes up, when you voted unanimously that it was not to interfere with what they say is the President's right to protect the troops. The right to protect the troops is not the issue at all. The issue is the expansion of the war into a neutral country, and they evade that issue altogether.

Mr. COOPER. That is what I am saying.

Mr. FULBRIGHT. But the political effect is that you are the capacity—the

will—of the Senate and the House to deny funds for this purpose will be destroyed if the President does not accept the spirit of it.

Mr. COOPER. I will proceed. I intend to discuss the questions which the Senator has raised. I have said from the beginning of the debate, that the purpose of our amendment is to prohibit the use of authority, whether express or implied to invade a jointly held authority with Congress, to determine whether or not the United States shall enter into a new war for Cambodia or expand this war in Vietnam.

We insist that a decision to engage the United States in a new war for Cambodia, or the extension of the Vietnam war in Cambodia, requires the approval of the Congress.

It is a joint right—of the President and Congress—in which both must share the responsibility of further committing the resources—material, and men in war.

The distinguished Senator from West Virginia has stated in his very scholarly speech that he did not intend that his original Byrd amendment should be construed to provide authority to the President to engage the United States in a new war in Cambodia for Cambodia or to make new commitment with respect to the Vietnamese war. I respect his statement. Nevertheless, the sponsors of the Cooper-Church amendment believed that the amendment was so worded that it could be interpreted as authorizing the President to make such a determination, and that the Senate and the Congress would be approving in advance—any determination that was made—even though it was one which otherwise would have required the consent of the Congress.

We have made it clear that we do not suggest or assume that the President will engage the United States in a new war for Cambodia. We simply assert that the Congress, as the President, has its constitutional authority and duty to join in warmaking decisions beyond those relating to the immediate protection of our Armed Forces in Indochina.

The Senator from West Virginia, Senator BYRD, will recall that his first amendment was attached to subsection (1), of Cooper-Church, which provides that troops shall not be retained in Cambodia after July 1. His first amendment provided "an exception to subsection (1) that it should not preclude the President from making such determination as he might decide necessary for the protection of the troops."

Mr. CHURCH. Mr. President, will the Senator yield?

Mr. COOPER. I yield.

Mr. CHURCH. Is it not true that the first Byrd amendment took the form of an exception to the limitation on the use of funds?

Mr. COOPER. That is correct.

Mr. CHURCH. And it is the use of funds which the Cooper-Church amendment seeks to limit. This is the power of Congress we are seeking to assert, and the substance of the Cooper-Church amendment prohibits the use of funds after July 1 for the purpose of retaining American forces in Cambodia, or for the

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other listed purposes in subsections (2), (3), and (4). Is that correct?

Mr. COOPER. That is correct.

Mr. CHURCH. And the new Byrd amendment is not an exception to the limitation on the use of funds, which clearly is within the power of Congress. It is, rather, an explicit statement, attached to the Mansfield amendment of last week, dealing with the President's constitutional powers as Commander in Chief, is that not correct?

Mr. COOPER. That is correct.

Mr. CHURCH. The Mansfield amendment states that nothing in the Church-Cooper amendment is intended to impugn the President's constitutional authority as Commander in Chief.

Mr. COOPER. That is correct. I will now deal with this subject.

The PRESIDING OFFICER (Mr. NELSON). The hour of 1 o'clock having arrived, the time between now and 2 p.m. is under control.

Who yields time?

Mr. CHURCH. Mr. President, I yield 5 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 5 minutes.

Mr. COOPER. Mr. President, after Byrd amendment No. 1 was defeated on June 11, several supporters of the Byrd amendment and of the Cooper-Church amendments expressed a desire to see included in the Cooper-Church amendment language recognizing the constitutional authority of the President as Commander in Chief to protect the Armed Forces. Several Members, among them Senator SPONG of Virginia, Senator PERCY of Illinois, Senator DOLE of Kansas, made valuable contributions through amendments and discussion on the floor toward specifying recognized powers of the President to protect the Armed Forces of the United States.

I believe all agreed that it is difficult to specifically define these powers, for much depends upon the circumstances under which they would be determined. Nevertheless, the discussion pointed out that the powers are essentially defensive—to repel attack sudden and impending—to retaliate, to employ hot pursuit, and take other emergency action. The power of the President and the Congress overlap in a grey area, but I do not believe those who oppose the Cooper-Church amendment or those who support the pending Byrd amendment can correctly argue that the Executive has authority to engage in a new war for Cambodia, or extend the Vietnam war into Cambodia.

Senator BYRD has continued his work to develop an amendment which would recognize the authority of the President to protect the U.S. Armed Forces and he has done so in a very systematic and scholarly fashion.

He developed and submitted to the sponsors of the Cooper-Church amendment at least three amendments—the third being the one pending. The amendment now pending is an amendment to the Mansfield amendment which was adopted on June 11 by the unanimous vote of those present.

I shall read the language of the Mansfield amendment:

Nothing contained in the Section shall be deemed to impugn the Constitutional power of the President as Commander in Chief.

If the Byrd amendment is approved, his language will read as follows:

Including the exercise of that Constitutional power which may be necessary to protect the lives of United States forces wherever deployed.

The original language of the Mansfield amendment is general. It recognizes the constitutional authority of the President—express and implied. The pending Byrd amendment would become a part of the Mansfield amendment, recognizing one of the constitutional powers of the President.

It is correct that the President of the United States has the constitutional authority to protect the Armed Forces of the United States around the world—wherever they are deployed.

Sponsors and opponents of the Cooper-Church amendment asked that the power be recognized. In our talks with the distinguished Senator from West Virginia, Senator CHURCH and I stated that we would not agree to any language which could be interpreted as negating subsections, 1, 2, and 3, or 4.

The pending Byrd amendment is not attached to subsection 1 as was the first Byrd amendment. It does not provide an escape clause to subsection 1 through the word "except" as did Byrd amendment No. 1.

It is a part of the Mansfield amendment—expressing and stating a general power of the President.

That is the way the sponsors of Cooper-Church interpret the pending Byrd amendment, and I believe it is the way Senator BYRD—who developed the amendment—interprets it. I call attention to his statement on page S9326, column 2 of the CONGRESSIONAL RECORD of June 18, following the introduction of the pending amendment, and in answer to a statement I had made giving my interpretation of his amendment. I ask unanimous consent to insert his statement in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Mr. BYRD of West Virginia. Mr. President, I share, with the able Senator from Kentucky, the belief that the President should not be given advance approval to enter into any new commitment or to enter into any new war. I would not want any statement I made to be interpreted to mean that the verbiage of the amendment before the Senate would extend such advance approval with respect to a new commitment or a new war.

I have tried to make clear my position to the effect that the President certainly should come to Congress and consult with Congress and get the consent of Congress before entering into any new war, any new commitment, or any involvement in support of or against the Government of Cambodia or the Government of Laos, et cetera.

I want the record to show that I also believe, as does the Senator from Kentucky, that except for those emergency situations which can arise and do arise in time of war—both de jure and de facto wars, if we want to use those terms—the President normally would have time to consult with Congress. I think he should do so. I think we agree that there can be, however, emergency situations wherein the President might have to take action very, very quickly, wherein there

might be the element of time and/or the element of surprise, which might have a bearing upon the success of whatever tactical operation might be involved, and when the President might not be able to immediately consult with congressional leaders.

Parenthetically, I do not think that was the case in the instance of April 30. I think that some congressional leaders at least could have been consulted. But that is behind us now.

I do have a feeling that this debate is going to imprint this point so indelibly upon the minds of this President and future Presidents, as they will read the history of it, that every effort will be timely made to properly consult with the leaders of Congress before any action is taken, except in the most dire and impending urgency.

With respect to the language of this amendment, as against the language of the Byrd amendment No. 667: The appropriation of moneys is a positive act in either case. It cannot just flow automatically and without some positive act having been taken by the legislative branch. In the case of amendment No. 667, although it said something to the effect that the "foregoing provisions of this clause" shall not preclude the President from taking whatever action as may be necessary to protect the lives of American servicemen in South Vietnam, that language in and of itself did not tie and could not have tied the hands of Congress with respect to the appropriation of money. That requires a positive act. Regardless of the language of amendment 667, had it been incorporated and adopted and become law, Congress still would have had power over the purse strings; because, under the Constitution, Congress—and only Congress—shall have the power to raise money, to pay the debts, to raise and support armies, and so forth.

So nothing could have been said in the verbiage of that amendment—and there is nothing in the amendment now before the Senate—that could subtract one iota from the power of Congress over the purse.

Mr. COOPER. Mr. President, I am assured by the interpretation of the distinguished Senator from West Virginia, who, over a week ago, and after several drafts, proposed the amendment before us. I must say some of its cosponsors and supporters have interpreted it in the most extreme and inaccurate way.

Here, let me say that I hope the cosponsors will not interpret the Byrd amendment, which is a statement of a recognized general power of the President to protect our troops wherever they are, as a means, or as an instrument which can be used far beyond the constitutional powers of the President, to engage the United States in a new war or an extension of the war in Cambodia.

I do not assert that the President intends to do so. He has said, in fact, that he would not; but it is our duty to look at our own constitutional responsibility and authority.

I have talked with the Senator from West Virginia before and after his amendment was introduced, most recently today, and have advised him that if the sponsors of the amendment stretch its interpretation to the point which was never intended by the Senator from West Virginia, who developed it, I would not feel myself bound to vote for it.

Mr. President, there has been much discussion in the Senate and in the news media about the purpose and effect of the Cooper-Church amendment. I believe that it has had the effect of causing the Senate and the country to think seriously of the most effective use of the

constitutional powers of the President and the Congress to protect American forces, to prevent an expansion of war in Vietnam, a new war in Cambodia, and to arrive at means to assist in the extrication of American forces from Vietnam and Southeast Asia. I believe the administration has given thought to our amendment, for it has been the subject of consultation between the administration and the Senate.

Language may be interpreted in different ways, but I think it clear that the purpose of our amendment is to assert and protect the responsibility of the Congress to participate with the President in decisions which would call for further demands upon the resources of the United States—both in material and manpower. The language of the pending Byrd amendment must be interpreted as a part of the language of the Cooper-Church amendment. It is a part of the Mansfield amendment, expressing the general authority and power of the President as Commander in Chief. It must be interpreted in its relation to subsections (1), (2), (3), and (4). It cannot be used to deny the authority of the Congress to participate in any decision which would approve a new war for Cambodia or an extension of the Vietnam war into Cambodia.

We continue to hope that the war may be ended in a just way, and we believe our amendment is a constructive and constitutional means of achieving that objective.

MR. CHURCH. Mr. President, I yield 5 minutes to the Senator from South Dakota.

THE PRESIDING OFFICER. The Senator from South Dakota is recognized for 5 minutes.

REAFFIRMING THE CONSTITUTIONAL POWERS OF CONGRESS

MR. MCGOVERN. Mr. President, when President Nixon on April 30 suddenly and without the slightest consultation with Congress ordered American forces into Cambodia, there were two courses suggested by alarmed Members of Congress: First, to bring impeachment proceedings; or, second, to assert the constitutional powers of the Congress to place certain checks on the Chief Executive.

The first course seemed too extreme to me, largely because it implied that the President was solely responsible for the arbitrary manner in which the Cambodian invasion was ordered. The truth is that the Congress has invited this kind of arbitrary one-man rule by permitting its own powers to be assumed by the President.

The Church-Cooper amendment is one small step toward restoring our tripartite constitutional system of government. It would give the Congress at least some limited voice in deciding whether or not American forces could be ordered into Cambodia again.

Frankly, I am surprised that every Senator has not quickly seized upon this limited first step toward the restoration of constitutional government. Why are Senators so reluctant to exercise their own constitutional responsibility for war or peace? Why are Senators so eager to transfer that responsibility to the Presi-

dent? Why do Senators talk so much about the powers of the Commander in Chief and so little about their own powers?

It is not the power of the President that has been weakened in the last 30 years. It is the power of Congress that has been neglected. That is not because we have a new Constitution; it is because we in the Congress have not been big enough men to share with the President the burden of decision and responsibility for the great issues of war and peace. That is not what the constitutional fathers intended. The whole thrust of the Constitution was to create a system of checks and balances in which Congress, Court, and President would share the obligations of government and especially matters of war and peace.

I believe the reaction of those who tremble before the mild language of the Church-Cooper amendment is a reaction born of constant surrender of congressional responsibility to the Chief Executive. I believe it is the reaction of congressional weakness and irresponsibility. It is a reaction which sends us whimpering to the President, petitioning him to save us from the burden of decision.

Senators have fretted and filibustered for 6 weeks trying to reaffirm the power of the President over the lives of American young men. But that is not the real issue. The President's powers have been growing enormously in recent decades because he has assumed more and more power. It is the power and the courage of Congress that is in question. What we need is language to make clear that nothing shall in the future impugn the constitutional powers of the Congress.

To those Senators who worry about placing some restraint on the President, I say that the Constitution intended there to be some congressional restraint on the President. That is the difference between an American President and a dictator. I realize that the Byrd amendment is being accepted by the sponsors of the Church-Cooper amendment—not because they like it, but because they regard it as a symbolic reiteration of powers the President already has. I respect this judgment. But I shall cast a symbolic vote against the Byrd amendment because it further proclaims the already recognized power of the President and is silent about the alarming failure of the Congress to exercise its own constitutional powers.

I regard the war in Indochina as the greatest military, political, economic, and moral blunder in our national history. That blunder was compounded by the reckless move into Cambodia. Each new plunge in this long and bloody conflict has given us a wider war and a more troublesome enemy response.

Prior to the fall of Prince Sihanouk and our sudden plunge into Cambodia, the Communist forces in that country were located in a few areas along the Vietnamese border, but since the fall of Sihanouk and our effort to dislodge the Communist sanctuaries, enemy forces have spread out across the face of Cambodia until they now threaten the entire country. We have lost another 1,000 Americans since this unfortunate Cam-

bodian chase began. For that, we have taken in return a few piles of rice and ammunition that will be quickly replaced. And we have sent the Communists out of their border hangouts into a rampage across the country.

Meanwhile, the war goes on in Vietnam with the United States suffering the heaviest casualties in Indochina that we have experienced in the past 11 months.

We had better liquidate this ill-advised venture soon, or it will bankrupt our entire Nation. The war has not only claimed 50,000 of our sons and wounded another 275,000; it has brought us a ruinous inflation, painfully high interest rates, a distorted economy with rising unemployment, and a postponement of such urgently needed efforts as housing, health, education, and antipollution. The war is weakening our Nation and playing into the hands of our enemies. It must be ended now, and that is a decision we should not ask the President to carry alone.

The best way for Congress to protect the lives of American troops is not by giving the President a free hand to send them into battle as he pleases; the way to save our troops is to bring them home from this foolish and hopeless crusade in Asia. Let us worry less about saving the President's face and worry more about saving the lives of young Americans.

Let us not be mental and moral midguts whimpering about the President's responsibility to decide. Let us stand up as men elected by the people of our States and share with the President the burden and the glory of exercising power and responsibility.

Let us pass the Church-Cooper amendment without further dilution and then get on as soon as possible with the amendment I have introduced with the cosponsorship of 24 Senators—the amendment to end the war. The time is long overdue for the Congress to reclaim constitutional government.

THE PRESIDING OFFICER. Who yields time?

MR. BYRD of West Virginia. Mr. President, I yield myself 5 minutes.

THE PRESIDING OFFICER. The Senator from West Virginia is recognized for 5 minutes.

MR. BYRD of West Virginia. Mr. President, I have listened very carefully to the statement of the able senior Senator from Kentucky. And in many respects I feel that the Senator's statement expresses not only his interpretation of the Byrd amendment, but also my own interpretation.

The Senator stated: "A principal purpose of the Cooper-Church amendment, as its sponsors have declared so often, is to prevent the United States from being engaged in a new war in Southeast Asia for the protection of Cambodia—a country to which the United States owes no obligation of any kind."

I believe that to be a principal purpose of the Cooper-Church amendment, Mr. President. And I share the viewpoint of the able Senator from Kentucky that the United States owes no obligation of any kind to Cambodia.

The President has indicated, and the

Secretary of State has indicated, that we have no commitments to Cambodia.

And as far as I am concerned, I am not interested in entering into any commitments to Cambodia.

Mr. FULBRIGHT. Mr. President, will the Senator yield for a question?

Mr. BYRD of West Virginia. I do not yield at this time.

Mr. FULBRIGHT. The Senator was hesitating.

Mr. BYRD of West Virginia. Mr. President, I may continue to hesitate. The Senator will allow me to do that as long as it is on my own time. I shall be glad to yield later.

Mr. FULBRIGHT. Mr. President, I withdraw the request.

Mr. BYRD of West Virginia. Mr. President, the able Senator from Kentucky states in his remarks as follows:

We have insisted and insist now that the opponents of our amendment or others shall not attempt to use language, or the interpretation of language, as the means of giving advance approval to any decision the President might make beyond his constitutional right and duty of protecting our forces. We insist that a decision to engage the United States in a new war for Cambodia . . . requires the approval of the Congress.

Mr. President, I agree that any decision to engage the United States in a new war for Cambodia would require the prior approval of Congress.

Mr. President, I do not mean for the Byrd amendment to be interpreted as any advance approval for the President to enter into any new commitment or to enter into any new war.

Again, the able Senator from Kentucky states as follows:

The distinguished Senator from West Virginia has stated in his very scholarly speech that he did not intend that his original Byrd amendment should be construed to provide authority to the President of the United States to engage the United States in a new war in Cambodia for Cambodia . . .

That is correct. It was not the intention of the cosponsors of the original amendment that the amendment be construed to provide authority to the President to engage the United States in a new war in Cambodia for Cambodia.

Mr. President, the same is true with the amendment presently pending before the Senate.

Mr. President, I sought in the debate with respect to the original amendment to convey clearly that it was not intended in any way to cover or modify paragraphs 2, 3, and 4 of the Cooper-Church amendment.

The able Senator today in his statement has made reference again to subsections, as he calls them, 1, 2, and 3.

Mr. President, as I shall state in a few minutes, my interpretation of this amendment, in fact, does not go to paragraphs 2, 3, and 4 at all.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I be permitted to continue for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Finally, the able Senator said—and I can appreciate his feeling this way about it—that some persons reportedly have tried to stretch the meaning of the amendment and that he would not feel bound to support it.

Mr. President, some persons have reportedly indicated that the Byrd amendment is meaningless. It is not meaningless, as the able Senator from Arkansas (Mr. FULBRIGHT) has already stated. It is not meant to be an empty gesture.

Anyone who says that it is meaningless simply has not read it carefully or thought about it carefully, but has probably listened to the advice of an aide.

Mr. President, I will attempt in a minute to state why the amendment is not meaningless.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. Mr. President, I now yield to the Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, I was going to ask the Senator if he would be as precise as possible as to what it does mean. I would appreciate it very much.

Mr. BYRD of West Virginia. Mr. President, I will be very glad to do that.

Mr. President, I yield myself 15 minutes.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 15 minutes.

Mr. BYRD of West Virginia. Mr. President, on June 11, the Senate rejected, by a vote of 52 to 47 the so-called Byrd amendment, No. 667, which I had introduced in behalf of myself and Senators GRIFFIN, STENNIS, SCOTT, HANSEN, DOLE, ALLEN, BAKER, HOLLINGS, GOLDWATER, and THURMOND.

That amendment reads as follows:

Except that the foregoing provisions of this clause shall not preclude the President from taking such action as may be necessary to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from Vietnam.

The Byrd amendment, when added to the Cooper-Church amendment, would then have read as follows, beginning at the comma on line 4 on page 5 of H.R. 15628:

No funds authorized or appropriated pursuant to this Act or any other law may be expended for the purpose of—

(1) retaining United States forces in Cambodia, except that the foregoing provisions of this clause shall not preclude the President from taking such action as may be necessary to protect the lives of United States forces in South Vietnam or to facilitate the withdrawal of United States forces from Vietnam.

Following the defeat of my amendment No. 667, on June 11, the able majority leader offered an amendment to the Cooper-Church amendment. Senator MANSFIELD's amendment, adopted by a vote of 91 to 0, was as follows:

Nothing contained in this Section shall be deemed to impugn the constitutional power of the President as Commander in Chief.

Amendment No. 708, the new Byrd-Griffin amendment, is before the Senate

this afternoon, and a vote will occur at 2 o'clock thereon. The amendment reads as follows:

On page 5, between lines 18 and 19, strike the period and insert the following: "including the exercise of that constitutional power which may be necessary to protect the lives of United States armed forces wherever deployed."

This amendment, if adopted by the Senate, when added to the verbiage contained in the Mansfield amendment—and they must be read together—would read as follows:

Nothing contained in this section shall be deemed to impugn the constitutional power of the President as Commander in Chief, including the exercise of that constitutional power which may be necessary to protect the lives of United States armed forces wherever deployed.

There are differences as well as similarities between the two Byrd amendments, No. 667, which was rejected by the Senate a few days ago, and No. 708, upon which we are about to vote.

Significant differences are as follows:

First. The first Byrd amendment contained the words "shall not preclude the President from taking such action as may be necessary to protect the lives," and so forth. The words "such action" were intended by me to be grounded in the President's constitutional authority but, as written, they were not confined to that authority. They very well could have been interpreted to derive from the Gulf of Tonkin resolution, Public Law 88-408. As a matter of fact, I think, in looking back, it could rightly be argued that they did not require any specific legal or constitutional authority as an organic base. Rather, they might have been interpreted as constituting a self-generating authority within themselves, because they authorized the President to take "such action as may be necessary." The only qualifications upon the action which could be taken was that it be an action considered "necessary to protect the lives of United States forces," and so forth. I am sure that neither I nor any of the cosponsors meant for the words to be as broadly interpreted and as freewheeling as they might have appeared, but, admittedly, that construction could have been placed upon them were it not for the legislative history which the cosponsors of the amendment laid down. The verbiage of the new Byrd amendment is clear on this point in that it confines any such action to that which derives from the President's "constitutional power," so that we get clearly away from the Gulf of Tonkin resolution or any other wholly statutory or self-generating authorization of power and we depend alone upon the power and authority emanating from the Constitution to be exercised by the President as Commander in Chief.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. If the Senator will allow me, I would prefer to complete my remarks first.

Mr. FULBRIGHT. Very well. I thought the Senator had said he would yield.

Mr. BYRD of West Virginia. I intend to yield after I have completed my statement.

Mr. FULBRIGHT. I wanted to ask about this particular point.

Mr. BYRD of West Virginia. After I have completed my remarks perhaps I shall have explained it. I shall be glad to yield shortly.

Mr. President, I was discussing significant differences.

Second. A second distinction between the two Byrd amendments lies in the fact that the one on which we will vote today specifically refers to U.S. "armed" forces rather than U.S. "forces" as stated in the first Byrd amendment. The word "forces," as used in the rejected amendment, could very well include CIA people, technical advisers, and perhaps even civilian employees of the military—although it was not intended to be so interpreted—whereas U.S. "Armed Forces" is a more limited term and clearly refers to military personnel, and it is more consonant with the "constitutional power" of the Commander in Chief.

Third. The words "in South Vietnam," as used in the first Byrd amendment were more restrictive than the words "wherever deployed" which appear in the amendment before us. In other words, the words "wherever deployed" are inclusive of South Vietnam but are not limited thereto. I think it is only logical that if the President has the constitutional power—and I say that he does have—to act when necessary to protect the lives of U.S. Armed Forces in South Vietnam, he has the constitutional power to do so elsewhere.

Fourth. A minor distinction—which is really a distinction without a difference—lies in the fact that amendment No. 708 goes to the entire "section," whereas the original Byrd amendment specifically dealt only with paragraph (1) of the Cooper-Church amendment. As far as I am concerned, however, the amendment on which we are about to vote, for all intents and purposes, is, in reality, confined in its thrust to paragraph (1) just as if paragraph (1) had been clearly specified, and that paragraph only. I say this because nobody contends that the President has "constitutional power" to pay the "compensation . . . of United States personnel in Cambodia, who furnish military instruction to Cambodian forces . . . in support of Cambodian forces," as referred to in paragraph (2); he has no "constitutional power" to enter into any "contract . . . to provide military instruction in Cambodia . . . in support of Cambodian forces," as mentioned in paragraph (3); and he has no "constitutional power," as such, to conduct "combat activity in the air above Cambodia in support of Cambodian forces," as referred to in paragraph (4) of the Cooper-Church language.

So much for the significant distinctions between the two Byrd amendments.

Now, as to the similarities. The basic similarity is one of substance. While the first Byrd amendment used the words "shall not preclude" as an affirmative expression with respect to Presidential action to protect the lives of servicemen, the new Byrd amendment does the same thing by clear implication.

Amendment No. 708, upon which we shall shortly vote, must be coupled with the Mansfield amendment in order to get its full meaning. The Mansfield amendment says that "nothing contained in this section shall be deemed to impugn the constitutional power of the President as Commander in Chief." Webster indicates that the word "impugn" means to assail, to deny, to question, to cast doubt upon. Hence, the Mansfield amendment may be said to state that nothing contained in the Cooper-Church language shall be deemed to cast doubt upon or to question or to deny the constitutional power of the President as Commander in Chief. The Mansfield amendment states that we do not impugn the "constitutional power" of the President, but that is not enough. It does not say what power we do not "impugn." It does not specify. I want to spell it out. The Mansfield language goes part way. Of course, implicit in the words "constitutional power as Commander in Chief" the President has all such power, whatever the bounds of that power which the Constitution reposes in him or imposes on him. But the Mansfield language standing alone fails to state explicitly the most important aspect of that constitutional power and the aspect with which we are most concerned at this time; namely, the constitutional power which may be necessary "to protect the lives of U.S. armed forces wherever deployed"—which includes South Vietnam.

The Byrd-Griffin amendment, No. 708, spells it out in the four corners of the statute, if the Cooper-Church amendment should become law.

Moreover, the Mansfield amendment merely recognizes the possession—and I emphasize the possession—of constitutional power by the President as Commander in Chief. The Byrd amendment recognizes not only the possession but also the "exercise" of constitutional power to protect the lives of U.S. Armed Forces.

A key word in the Byrd amendment, therefore, is "exercise." Ergo, looking at at the first and second Byrd amendments, I feel that the second Byrd amendment, when coupled with the Mansfield language, achieves in substance the goal which was sought by the sponsors, or at least by the sponsor, of the first Byrd amendment, but it is more clear as to its intent in that it bottoms any exercise of power by the President clearly on the Constitution, and it also presents the other distinctive refinements which I have alluded to already.

One might ask, then, why it is necessary to write into law anything at all with regard to the constitutional power of the President.

Admittedly, the Senate cannot add to or subtract from the constitutional power of the President by anything we might write into any statute. Nonetheless, in consideration of the whole context of the Cooper-Church amendment, those of us who support the Byrd amendment feel that it is absolutely necessary to indicate in the four corners of the law that there indeed is a limitation on what paragraph

(1) of the Cooper-Church amendment may appear to do.

Even the authors of the Cooper-Church amendment have said that paragraph (1) is not completely prohibitive in every respect, but I think that the limitation must be explicitly set forth in the cold letters of the statute. I think the President would be under some strain, otherwise, because he would have to go into the legislative history in order to find that there is indeed a limitation.

What is the limitation that we have been talking about all along? I quote from page S8791 of the CONGRESSIONAL RECORD of June 10, 1970. I read the words of the Senator from Idaho (Mr. CHURCH):

Mr. CHURCH. Mr. President, the key word is "retaining." That word was used advisedly. The amendment provides that funds are not available to retain American forces in Cambodia after the end of June.

Then again:

Mr. CHURCH. The word "retain," as the debate has clarified, was used to serve two objectives: First, to make it clear that the Congress believed American troops should not stay in Cambodia after the end of June; and, second, to allow for those particular occasions that might arise where the President, in the exercise of his constitutional authority as Commander in Chief, might have to make a sudden strike into Cambodia in order to effectively protect American troops near the border.

On page S8765 the Senator from Idaho (Mr. CHURCH) said as follows:

The key word in the Cooper-Church amendment is "retaining." Subsection 1 of the amendment prohibits the retention of American forces in Cambodia after June 30. I agree with the Senator from Kentucky that our amendment is intended to prohibit a permanent or quasi-permanent occupation of a buffer zone within Cambodia for an extended period of time.

However, if it were to happen that the enemy suddenly utilized a staging area, and there was a concentration of enemy troops and equipment obviously intended to be used against South Vietnam beyond the border, we would agree that the President, as Commander in Chief, has the constitutional authority to order his field officers to strike at and destroy such a base to protect American troops in South Vietnam. This would, however, be in the nature of a sudden strike and withdrawal operation.

The able Senator from Kentucky (Mr. COOPER) stated, as appears in the same June 10 CONGRESSIONAL RECORD, at page S8765, as follows:

It has been interpreted as the power to repel sudden attack. I believe it would include the authority of "hot pursuit." If an emergency should arise near or upon the border between Cambodia and South Vietnam which should cause the President, as Commander in Chief, to think it necessary to take limited action to protect troops, I would agree that he could and should protect our men.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BYRD of West Virginia. Mr. President, I yield myself 3 additional minutes.

In the middle column on the same page, the Senator from Kentucky (Mr. COOPER) is quoted as saying:

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As to the question whether there is continuing authority to enter Cambodia in a zone 20 miles in width, I would say our amendment does not recognize such authority. That is my judgment. But if an emergency situation should arise where our troops were in danger, I think the President, in his good judgment, would have the power to defend our troops against attack.

I cannot set out a line in terms of miles. I am trying to base the authority on steps against a sudden attack, repelling sudden attack, or in case of an emergency, such action as is necessary to protect the troops.

So the authors of the Cooper-Church language have themselves indicated that paragraph (1) is not completely prohibitive in every respect. As I say, I think the limitation must be explicitly set forth in the cold letters of the statute.

I think there is some satisfaction to be gained from the fact that most of the legislative history in which reference is made to such a limitation grew out of the debate on the first Byrd amendment. Without that debate, I am just not sure that even the legislative history would have indicated that the intent of paragraph (1) of the Cooper-Church amendment leaves some room for the exercise of constitutional power by the President to act in an emergency situation, without prior consultation with Congress, to protect the lives of American servicemen. So, I think it will be reassuring to the President—to any President in any administration under any political party—to see it spelled out in the law that the President does have some flexibility in the exercise of his constitutional power to act in an emergency situation to protect the lives of American servicemen, and without prior consultation with Congress.

Moreover, and perhaps even more important than this, it seems to me it is imperative that the North Vietnamese and the Vietcong not be left under any illusions as to what the intent of the Cooper-Church amendment will be if enacted. I think if the Byrd amendment is incorporated in the statute, the enemy will not be as prone to miscalculate, or to misconstrue and misinterpret the intent of the Congress as might otherwise be the case without the Byrd amendment.

Additionally, I think the American people, and especially the parents and relatives of American servicemen—to say nothing of the servicemen themselves—will feel better about our action if the Byrd-Griffin amendment is incorporated into the Act.

Now, I want to make it clear beyond reasonable doubt that the Byrd amendment is not intended to relieve the President of the necessity of consulting with the Congress whenever it is possible to do so before taking what might otherwise be a controversial action—even though he may have the constitutional power and authority to do so. As I have said repeatedly, I believe that the President's failure to consult with Congressional leaders in advance of the April 30 Cambodian operation was an error of political judgment. It was a congressional relations mistake, and it subjected him, quite rightfully, to some of the criticism which has been directed at him following the

action he took. I do not believe, however, that his action to protect the lives of American servicemen in South Vietnam was an abuse of constitutional authority, but that is a little bit beside the point. The point I am making here and now is that the President should consult with Congress about these matters whenever it is possible for him to do so, and, in looking back, I think that it was possible in respect of the Cambodian operation.

The Byrd amendment is not intended to relieve him in this regard. I must be frank to say that I do not think he is bound, by the Constitution or otherwise, to consult with congressional leaders every time he makes a tactical decision as Commander in Chief. For him to be so bound would be to hamper and restrict him in the proper exercise of his constitutional duty to protect the lives of American forces. In a critical emergency situation, he may have to act with great speed. The element of surprise may be a vital factor. So, I do not view it the constitutional prerogative of the Congress to require that the President first clear every such action with the legislative branch, because this could very easily compromise the success of any tactical action designed to save lives of American Armed Forces.

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. BYRD of West Virginia. Mr. President, I yield myself 2 minutes.

But it is not intended by this amendment to relieve the President of what is a very clear responsibility of his, in my judgment, to consult with the Congress and to get its approval and its support before entering into any new war or any new commitment. Here, I think the constitutional authority of the legislative branch to declare war, to raise and support armies, to provide and maintain a navy, to make rules for the Government and regulation of the land and naval forces, and so forth, clearly reposes in Congress, and in Congress alone, the authority to enter into new commitments and into new wars, for example, a war in support of Cambodia. In other words, I cannot envision it to be the constitutional power or authority of the President to enter into a new war or into a new commitment to fight for another country without prior consent of Congress as being necessary to save the lives of American servicemen, except in the ultimate extreme, and a suddenly developing situation which would require—hopefully it would never happen—pressing the nuclear button as the absolute last resort to preserve the lives of American servicemen from instant annihilation by a hostile nuclear power.

So, let there be no misunderstanding and intent of the cosponsors of the Byrd amendment. We do not intend it to provide a loophole for new commitments or for entrance into new wars. But we do intend that it be a recognition of that constitutional power and authority which it seems to me everyone should agree is reposed in the President to take action which may be necessary to protect U.S. Armed Forces in perilous and dangerous situations, and to do so without the re-

quirement of consultation when it would be impracticable and unreasonable to expect consultation.

Of course, it is the Commander in Chief who would decide when such an emergency situation exists.

So, I think that the Byrd amendment rounds out the whole of the equation. The Cooper-Church amendment goes a long way toward avoiding new involvements in new wars without prior approval of Congress. But the Byrd amendment, when coupled with the Mansfield language, fills in the rest of the picture and recognizes the authority and duty of the Commander in Chief to play his proper role as the protector of our troops without undue, unreasonable, or impracticable restrictions placed upon him in emergency situations which can and do arise in wars, whether those wars be de jure or de facto, or whether those wars be undeclared or formally declared. And frankly, I do not want any more wars of either kind.

One final point should be made. It is wrong to say that the Byrd amendment is unnecessary, and it is even a greater mistake to imagine—as some have indicated—that it is meaningless. To do so is to indicate that one has not carefully read and studied the amendment. It goes as far as the first Byrd amendment was intended by its cosponsors to go, it achieves what the cosponsors of that amendment endeavored to achieve, but, in my judgment, it is an improved amendment over that phraseology—an improvement which has come with debate, with conference and with study.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BYRD of West Virginia. Mr. President, I yield myself 1 minute.

Mr. FULBRIGHT. Mr. President, will the Senator keep 1 minute for a question?

Mr. BYRD of West Virginia. We will not vote until 2 o'clock. Perhaps the Senator will yield to me on his time.

Mr. FULBRIGHT. I do not have any time yet.

Mr. BYRD of West Virginia. As I said in my June 18 Senate speech on this amendment, constitutional power is constitutional power. But definition and interpretation of the term will differ and will vary from Senator to Senator and from President to President. But there is no mistaking what it means if, in plain English, we insert into the law words of common understanding, stating that it includes 'the exercise of that constitutional power which may be necessary to protect the lives of U.S. Armed Forces wherever deployed.'

As the able Senator from Arkansas has said, Congress is not presumed to do a useless act. Every word in a statute is presumed to have been placed there by Congress for an intended purpose. By adopting this amendment, the intent of Congress, in my judgment, cannot be misunderstood or misconstrued by friend or foe, because that intent will have been expressed in no uncertain terms in the statute itself—namely, that nothing in the Cooper-Church amendment shall be deemed to impugn or question the constitutional power of the President as Com-

mander in Chief "including the exercise of that constitutional power which may be necessary to protect the lives of U.S. Armed Forces wherever deployed."

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. Mr. President, I am pleased to yield 2 minutes to the distinguished chairman of the committee.

Mr. FULBRIGHT. Mr. President, I said a moment ago I would vote "present." After hearing the Senator from West Virginia speak, I shall vote "nay."

I wanted to ask the Senator what he understood the effect of his amendment to be, but he was not inclined to yield. I intended to ask the Senator whether he believes it changes the Constitution.

This is not a constitutional amendment. This is what I would call a political maneuver. It is similar to the Gulf of Tonkin resolution, which did not give the President any power he did not have, as President Johnson readily admitted. What it did do was remove the freedom of action of the Senate and the House of Representatives. It was a political trick to neutralize the efforts of Congress to assert its constitutional power.

This amendment does not give the President any power. Its sponsors say it is just empty verbiage. It is not empty, however, in this sense: It will make all Senators who vote for it feel that they are committed, when it comes time for appropriations, not to deny appropriations. The only real, serious, unquestionable power of Congress to stop the war or to limit it is to cut off the money.

This amendment, while it will not have a constitutional effect nor a legal effect, will, I think, have a psychological effect. Furthermore, it is very unlikely that this whole matter will pass the House of Representatives and go to the President. Everyone recognizes that. But the Cooper-Church amendment is very significant as an expression of the Senate's views about Cambodia, and it ought to be taken into consideration as such by any President.

The evil of the kind of verbiage contained in the pending amendment, which, on the one hand, some say means nothing, but which on the other hand does mean something, as the Senator from West Virginia has stated, is that it has a very questionable political effect, and I do not wish to be a party to it.

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. Mr. President, I am happy to yield 2 minutes to the Senator from Indiana (Mr. BAYH).

Mr. BAYH. Mr. President, I thank my distinguished colleague from Idaho.

Inasmuch as the hour is late and time is running out, I shall be brief. It is interesting to observe how two such well-intentioned, interested, and studied Senators as the distinguished Senator from West Virginia and the distinguished Senator from Arkansas can vary in their interpretation of this language. Perhaps my interpretation differs a bit from that of either of the distinguished Senators, but I certainly concur in the remarks of the Senator from Arkansas that it is indispensable, that the representatives of the people reassert their constitutional

powers under article I, section 8, which we have permitted to lapse, or at least to lie dormant for too long.

Rather than read the speech which I have prepared discussing the constitutional aspects of the Byrd amendment, I ask unanimous consent that I be permitted to have it printed in the Record. It is a brief discussion of the constitutional questions raised by the exercise of Congressional authority to declare war and to raise armies and the exercise of the President's powers as Commander in Chief. This is the question we find ourselves debating in the final analysis.

Mr. FULBRIGHT. Mr. President, reserving the right to object—and I shall not object—I have no objection to the Senator's request, but I do object to one expression he used, and that is the constitutional power of Congress has lapsed. It has not lapsed; we may not have asserted it, but it certainly has not lapsed.

There being no objection, the statement by Senator BAYH was ordered to be printed in the Record, as follows:

Mr. BAYH. The original Byrd amendment would have added to the Cooper-Church proposal an exception, approved by Congress in advance that: The foregoing provisions of this clause [Cooper-Church] shall not preclude the President from taking such action as may be necessary to protect the lives of the United States forces in South Vietnam or to facilitate the withdrawal of United States forces from South Vietnam.

On June 10, 1970, in a statement on the Senate floor, I pointed out that if the Byrd amendment it was intended simply as a restatement of the President's constitutional powers as Commander-in-Chief, then it was unnecessary.

Congress cannot legislate restrictions on the President's authority as Commander-in-Chief; nor can it expand those powers by statute. We are all agreed that the President has the responsibility to protect our forces in the field. To do so, however, he does not require advance Congressional approval. For that reason, the Senate saw no need to hedge on the restriction adopted last year on American combat operations in Laos and Thailand.

The original Byrd amendment, however, did leave unanswered the critical question of whether its adoption would constitute another blank check from a pliant Congress—similar to the disastrous Gulf of Tonkin Resolution—sanctioning any actions the President might take in Southeast Asia. Because there was some doubt as to its meaning, I voted against the Byrd amendment.

The defeat of the Byrd amendment raised, in some minds, the question of whether the Senate was attempting to infringe on the President's constitutional authority. In order to allay these unfounded fears, the distinguished Minority Leader [Mr. Mansfield] offered an amendment that sought to clarify the Senate's action. The Mansfield amendment, approved 91-0, was a general statement of intent. It said:

"Nothing contained in this section shall be deemed to impugn the Constitutional powers of the President as Commander-in-Chief."

The distinguished Senator from West Virginia [Senator Byrd] is now seeking to amend the Mansfield language by adding: "including the exercise of that constitutional power which may be necessary to protect the lives of the United States Armed Forces wherever deployed."

The addition of this language, it seems to me, in no way alters the substantive provisions of the Cooper-Church amendment. It merely makes more explicit the statement

of Congressional intent already approved by the Senate.

I will vote for the amendment offered by my distinguished colleague from West Virginia [Mr. Byrd]. But I want to restate my firm belief that the substantive provisions of the Cooper-Church amendment will remain intact and be binding on the President. The new Byrd amendment should not be mistaken for Congressional approval of future Presidential actions in Southeast Asia.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BAYH. May I have 1 minute?

Mr. CHURCH. I yield the Senator 1 additional minute.

Mr. BAYH. I think if the Senator from Arkansas had listened carefully, he would have heard me change "lapse" to "lie dormant," which I think he will agree is a more accurate expression.

I also ask unanimous consent to have printed in the Record two or three quotations from the concurring opinion of Justice Jackson in the case of Youngstown Sheet & Tube Co. against Sawyer, back in 1952. This involved a constitutional question as to whether the President, acting as Commander in Chief, had the right to take possession of the steel mills during the Korean war. I think in that opinion there is as cogent a discussion of the war powers of Congress and the President as I have seen. I believe that it may be useful to someone who may be trying to sort out the issues we are discussing here to review the statement I made on June 10, prior to the vote on the original Byrd amendment, incorporating Justice Jackson's opinion.

There being no objection, the requested matter was ordered to be printed in the Record, as follows:

The President, as Commander-in-Chief, is responsible for the conduct of military activities once war has been declared and clearly he also has the power to repel any attacks on the United States. As Commander-in-Chief, the President alone is responsible for implementing military policy—in much the same way the President alone is responsible for seeing that "the laws be faithfully executed."

But the President's power as Commander-in-Chief no more warrants the conclusion that he alone has the power to formulate military policy than does his obligation to enforce the law imply that he alone can make laws. As Justice Black pointed out in the steel seizure case:

"The Constitution is neither silent nor equivocal about who shall make laws which the President is to execute. . . . The Constitution does not subject this lawmaking power of Congress to presidential or military supervision or control. . . . The Founders of this Nation entrusted the lawmaking power to the Congress alone in both good times and bad."

Youngstown Sheet and Tube Co. v. Sawyer, 343 US 587 (1952) I believe the lawmaking powers of Congress apply to the formulation of military policy as well, as is so clearly spelled out in Article I, Section 8. And it was upon that grant of authority, I want to remind my colleagues, that Congress acted so wisely last year to prohibit the use of funds for the introduction of American forces in Laos.

The introduction of American forces into a country where they have previously been restricted from venturing for fear of widening the war, despite the pleas of the military, is clearly a major policy decision. At the very least, it seems to me, the Constitution requires that such a decision should have been

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shared by the people's representatives in Congress.

The concern of the Framers of the Constitution, moreover, was not simply limited to dividing the war power between the Congress and the President. They specifically provided that Congressional authority was to be insulated from Presidential encroachment by a constitutional requirement that military appropriations could not be for longer than two years. Alexander Hamilton, himself an ardent advocate of a strong executive, explained the importance of the two-year limitation in *Federalist Paper No. 26*:

"The legislature of the United States will be obliged by this provision, once at least in every two years, to deliberate upon the propriety of keeping a military force on foot; to come to a new resolution on the point; and to declare their sense of the matter by a formal vote in the face of their constituents. They are not at liberty to vest in the executive department permanent funds for the support of an army, if they were even incautious enough to be willing to repose in it so improper a confidence."

The specific purpose of the two-year limitation was to act as a brake on the growth of a standing army, which at that time was considered the major threat to constitutional processes. The larger import of the appropriations limitation, however, is that Congress is required to fully review and pass on our military posture before the expenditure of additional money. The Congressional appropriations power as it relates to military policy, therefore, was clearly intended as an important constitutional check on both the President and the armed forces.

That Congress, after many years of simply acquiescing to executive leadership in military and foreign affairs, has recently chosen to exercise its constitutional powers seems to have startled some people. That Congress has not acted so forcefully for so long, of course, in no way affected its authority to act last year in regard to Laos and similarly does not affect its authority for acting now to prohibit American combat troops from fighting in Cambodia after July 1, 1970. As Justice Black said, "The Founders of this Nation entrusted the lawmaking power to the Congress alone in both good times and bad." That Congress retains this power today is obvious.

That Congress should exercise this power to limit future American military operations in Cambodia, of course, is a different and more delicate question. And I want to re-emphasize the term "to limit future American military operations in Cambodia." I did not say "to limit the President." For, contrary to the message opponents of the amendment are intent upon conveying, it is not designed to—nor could it—limit the President's powers as Commander-in-Chief. These powers are constitutional and Congress cannot legislate away or infringe upon the President's constitutional authority.

But Congress can—and should—exercise its own constitutional authority to legislate the limits of American military policy in Southeast Asia. Rejecting the view that the Commander-in-Chief clause supports "any Presidential action, internal or external, involving the use of force," Justice Robert Jackson wrote:

"Congress alone controls the raising of revenues and their appropriations and may determine in what manner and by what means they shall be spent for military and naval procurement."

And in further attempting to define the precarious constitutional balance between the President as Commander-in-Chief and the Congress' lawmaking power, Justice Jackson pointed out:

"Presidential powers are not fixed but fluctuate, depending upon their disjunction or conjunction with those of Congress. . . . When the President takes measures incom-

patible with the expressed or implied will of Congress, his power is at its lowest ebb. . . . Courts can sustain exclusive presidential control in such a case only by disabling the Congress from acting on the subject. Presidential claim to a power at once so conclusive and preclusive must be scrutinized with caution, for, what is at stake, is the equilibrium established by our constitutional system."

Precisely, what is at stake is the integrity of our constitutional process. And because the stakes are so high, it is necessary for Congress to act. As the New Yorker magazine has said, in explaining the larger implications of this breakdown in our governmental system:

"If the United States government fails to honor the freedom of its own people, who are protected by the American Constitution, it will not honor the freedom of any people. This is the true relationship between the invasion of Cambodia and the survival of the free institutions that President Nixon mentioned in his speech, and for this reason the invasion of Cambodia and its consequences within America are the urgent concern not only of Americans but of all mankind."

Mr. CHURCH. Mr. President, I yield 2 minutes to the distinguished Senator from New York.

Mr. JAVITS. Mr. President, I shall take my 2 minutes to ask a question of the distinguished author of the amendment.

The Senator from Arkansas (Mr. FULBRIGHT) has stated that he does not see anything in this amendment but "color." I see more in it than color, and it worries me. The Senator from West Virginia, in his amendment, includes the language "that exercise of constitutional power which may be necessary," and so on.

In short, this whole question of power is undefined, both as to that of the President and that of Congress. We are defining it. The idea that we are defining it to include whatever constitutional power is necessary to protect the lives of U.S. Armed Forces, wherever deployed, is a very attractive concept. But, question: A Commander in Chief can sacrifice 20 men to save a million. That is the right which the amendment discusses. But is there no limit on this whatever? Or is this another Gulf of Tonkin resolution? I think we ought to know that. Suppose Congress, in its majesty, does not assent to 6 years of war to save 50 American troops. Are we conceding that the definition of the President's constitutional authority is solely what he defines it to be? That is the question I ask the proponent of the amendment. Does he construe this as a finding or definition by us which in any way excludes the power of Congress, whatever it may be under the Constitution, to also determine whether it does or does not wish to sacrifice whatever lives may be necessary, as is often the case in war, in order to save many more? What is the concept of the proponent of the amendment on this subject?

Mr. BYRD of West Virginia. Mr. President, Congress and the President share the war powers. The amendment clearly does not express our approval of any new commitment or new war.

The PRESIDING OFFICER. The Senator has 1 more minute.

Mr. JAVITS. So the Senator defines his amendment as stating that he does not intend thereby to define—not create;

we cannot create anything by law as it affects the Constitution—but to define his language to mean that Congress still retains whatever power it has under the Constitution, even to stop a President, or whatever power it has with relation to the saving of American lives wherever deployed? We have a right in that, too, as well as the President. Does the Senator define his amendment that way?

Mr. BYRD of West Virginia. Mr. President, the amendment recognizes the war powers of Congress and the power of the President, as Commander-in-Chief under the Constitution.

Mr. JAVITS. I understand. In other words, the Senator does not feel that he is curtailing in any way the power of Congress on the same subject?

Mr. BYRD of West Virginia. Nor am I curtailing the constitutional power of the President.

Mr. JAVITS. Neither one? Is the answer to that yes?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JAVITS. Can the Senator yield time for an answer to that question?

Mr. CHURCH. Mr. President, my time is nearly exhausted.

Mr. JAVITS. Can the Senator say "yes" or "no" to the question?

Mr. BYRD of West Virginia. I think I have.

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. Mr. President, I yield myself whatever time I have remaining.

In recent days, I have heard the junior Senator from West Virginia compare the powers of the Congress and the powers of the President to two separate vessels, each filled by separate grants of power under the Constitution. It is, I believe, an appropriate analogy. Congress cannot, by passage of a mere bill, add to or detract from the President's own constitutional powers. But it can, through the exercise of its own constitutional powers, withhold the means, in this case, the money, for certain actions which the President might otherwise deem to be within the scope of his authority. That is what our system of checks and balances is all about.

Congress, of course, can permit its constitutional power to erode away, or accrete to the President through inaction and acquiescence. Most Presidents have been inclined to seize these opportunities to extend the reach of the executive branch at the expense of a weak and docile Congress.

Unfortunately, there have been all too many constitutional red herrings strewn along the path of the debate on the Cooper-Church amendment. It has been alleged repeatedly that the amendment is an attempt to usurp the constitutional powers of the President, particularly his powers as Commander in Chief.

The Cooper-Church amendment does not address itself to the powers of the President but to the powers of Congress. It says, in effect, "Mr. President, after July 1, 1970, there will be no funds available to you for retaining U.S. forces in Cambodia; for sending U.S. military advisers into Cambodia to instruct or assist Cambodian forces; for hiring military advisers or combat forces of third

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countries to assist Cambodia; or for U.S. air support to Cambodian forces."

As the record of this debate clearly shows, the sponsors of the amendment have always contended that the amendment is in no way intended—nor is it possible for it—to affect the Constitutional power of the President as Commander in Chief to protect American troops in the field. The amendment is addressed to the powers of Congress, in particular, the power of controlling the purse. Let me repeat, first, what the amendment does not do, and then what it does do.

The Cooper-Church amendment does not prevent use of U.S. air power to attack the sanctuary areas in Cambodia.

The amendment does not prohibit retaliatory sorties across the Cambodian border—or protective reaction as Secretary Laird might call it—in response to enemy attacks on our troops in South Vietnam originating from across the border.

The amendment does not bar hot pursuit of enemy forces which cross into Cambodia.

The amendment does not prevent such action as may be necessary to repulse an immediate attack on our forces in South Vietnam even if it means striking a blow across the Cambodian border.

Finally, the amendment does not, in any way, restrict the President in the constitutional use of his discretionary power as Commander in Chief to take action of an emergency nature to protect the lives of American forces.

The amendment offered last week by the majority leader, and approved 91 to 0, said all of this implicitly. Now the amendment offered by the Senator from West Virginia says it explicitly. But the new Byrd amendment neither confers additional authority to the President nor creates a loophole by way of an exception to the limitations contained in subsections (1), (2), (3), and (4) of the Cooper-Church amendment. These all relate to the expenditure of money, over which Congress has exclusive powers.

It is simply a more explicit statement of what this body unanimously agreed upon last week. It is a far cry, in my judgment, from the previous Byrd amendment rejected by the Senate which would, in effect, have excepted from the monetary restriction contained in the Cooper-Church amendment any action the President later decided to take in Cambodia, as long as it was done in the name of protecting U.S. troops in South Vietnam, or in the name of expediting their withdrawal from that country.

Now that I have recited what the Cooper-Church amendment does not do, let me spell out what it will do.

The amendment denies congressional endorsement in advance to any future action that the President might take in Cambodia in the name of either protecting our forces in Vietnam or expediting their withdrawal from that country. In any future military actions in Cambodia, the President would have to act within the limits of his constitutional power as Commander in Chief, not under any claimed authority of a congressional waiver, as tendered by the original Byrd amendment.

The Cooper-Church amendment prohibits use of funds to retain American troops in Cambodia after July 1, without congressional approval. The word "retaining" was chosen very carefully and means just that—the prohibition was clearly meant to exempt limited emergency operations along the border, such as those in hot pursuit of the enemy.

The amendment will prevent involvement by U.S. personnel, military or civilian, in combat activities with, or in rendering advisory services, to Cambodian forces.

The amendment will prohibit the use of U.S. funds for hiring third-country mercenaries to fight in Cambodia, or for engaging in those other activities in behalf of the Cambodian Government which U.S. personnel are prohibited from doing directly.

Finally, in summary, the basic objective of the Cooper-Church amendment is to prevent the United States from becoming involved in a war in Cambodia, or from becoming tied to the defense of the new Cambodian Government without the approval of Congress.

Although Congress cannot directly add to or diminish the President's constitutional power as Commander in Chief, it does have the right and the responsibility, principally through the congressional control of the purse strings, to affect the exercise of the President's power. To have it otherwise would permit a President to take any action, no matter how preposterous, in the name of protecting American troops, and thus bind Congress to furnish automatically whatever amount of money was needed to pay for the adventure. Ours is still a system of checks and balances and the congressional key to the Treasury is a valid restraint—if used—on the President's exercise of his power as Commander in Chief.

Alexander Hamilton, an advocate of strong executive power, wrote in the *Federalist Papers*:

The President is to be commander in chief of the Army and Navy of the United States. In this respect his authority would be nominally the same with that of the king of Great Britain, but in substance much inferior to it. It would amount to nothing more than the supreme command and direction of the military and naval forces, as first general and admiral of the Confederacy, while that of the British king extends to the declaring of war and to the raising and regulating of fleets and armies—all which, by the Constitution under consideration, would appertain to the legislature.

I repeat Hamilton's words that—

The raising and regulating of fleets and armies—all which, by the Constitution under consideration, would appertain to the legislature.

Throughout our Nation's history, some Presidents have exercised their power as Commander in Chief in a most aggressive manner, reaching further, in certain cases, than constitutional scholars believe proper. The Supreme Court itself has struck down, in at least two cases, what is regarded as the proper exercise by the President of his constitutional powers as Commander in Chief. In most of these cases, however, Congress has chosen to acquiesce. As a consequence, the congressional prerogative, which the Nation's Founding Fathers intended to

control the use of the Armed Forces, has been permitted to atrophy.

The Cooper-Church amendment does not address itself to the question of whether the President had either constitutional power or congressional sanction to order U.S. troops into Cambodia on April 30—or whether the action was necessary, wise, or justified. At that time, it is clear, Congress had laid no restraints upon the President as to his use of public funds appropriated for the purpose of financing the war. Therefore, that question is irrelevant to the issue now before the Senate.

I believe Congress has the duty to use its power of the purse to guarantee against our involvement in a wider war in Southeast Asia. But Congress must make it clear that it intends to exercise its power of the purse if it expects the executive branch to respect that intention. "The tools belong to the man that can use them," Napoleon is reputed to have said. Only Congress, by exercising its Constitutional powers, can prevent them from passing into other hands.

The Cooper-Church amendment is but an effort to utilize the long dormant and rusty tools available to the Congress. The Constitution wisely divided the power of our Government among many men and several institutions in order to forestall that concentration of power which leads to tyranny.

Prof. Ruhl Bartlett of the Fletcher School of Law and Diplomacy in testimony before the Foreign Relations Committee 3 years ago, stated the issues embodied in the Cooper-Church amendment. He said:

Perhaps in conclusion I may be allowed a judgment on the basis of my study of human affairs and of American history. It is that the greatest danger of democracy in the United States and to the freedom of its people and to their welfare—as far as foreign affairs are concerned—is the erosion of legislative authority and oversight and the growth of a vast pyramid of centralized power in the executive branch of the Government. The fear of the framers of the Constitution that executive power unless properly curbed could develop along monarchical lines was fully justified, but they provided curbs. There is no constitutional basis for the assumption that substantive powers were conferred on the President as the Executive. As one Supreme Court Justice remarked, if this were true no human intelligence could "define the fields of the President's permissible activities. A masked battery of constructural powers would complete the destruction of liberty." The same kind of comment applies to the idea that the President has authority as Commander-in-Chief to replace the authority of the Congress to declare war or to determine the use of the Armed Forces, or that he has the authority to define and execute treaties in any way he desires. The arguments of immediacy, expertness, superior information, and greater wisdom are equally fallacious as bases for enlarged Presidential authority. The framers of the Constitution bequeathed to the American people a great heritage, that of a constitutional, Federal, representative Government, with its powers limited in scope and divided among its three separate branches, and this system was devised not because it would produce efficiency or world dominion, but because it offered the greatest hope of preventing tyranny.

The concentration of authority over matters of war and peace in the hands of the President has thrown the carefully

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devised system Prof. Ruhl Bartlett spoke of so eloquently severely out of balance. The Cooper-Church amendment will help to right that balance.

Only a year ago this month, the Senate by a vote of 70 to 16 passed a national commitments resolution as a step toward restoring the Senate's proper role in the making of foreign policy. Six months ago, by a vote of 80 to 9, the Senate passed an amendment—supported by the administration—to prohibit the sending of U.S. ground troops into Laos or Thailand without congressional approval.

In approaching the issue of the Cooper-Church amendment Senators should set aside the events of the long years of this war—and especially those of the last 2 months—and view the amendment as the institutional question it is. Make no mistake about it—the Senate as an institution is on trial here. I hope that in voting on the Cooper-Church amendment, the Senate will live up to the great expectations of the authors of the Constitution, who saw Congress as the people's bulwark against one-man rule.

Mr. President, in summary, if the Senate adopts the present Byrd amendment every substantive subsection of the Cooper-Church amendment, dealing with restrictions on the use of public funds, will remain intact. The Byrd addition to the Mansfield amendment explicitly recognizes the President's powers as Commander in Chief. These are not within the reach of Congress. Yet, money is within the reach of Congress, and the limitations imposed by the four subsections of the Cooper-Church amendment remain intact, operative, and whole.

The Cooper-Church amendment is a valid assertion of congressional power to prevent the United States from becoming engaged in a new war in Cambodia, for Cambodia. This was the original objective of our amendment 6 weeks ago and continues to be what we seek.

For these reasons, Mr. President, I see no objection to the amendment, in its new form, offered by the Senator from West Virginia. It is consistent with the action the Senate took more than a week ago when it adopted the Mansfield amendment by a unanimous vote of 91-0. I will, therefore, cast my vote in favor of the new Byrd amendment.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. CHURCH: I yield.

Mr. MANSFIELD. Mr. President, I wish to join my distinguished colleague, the senior Senator from Idaho, in what he has just said.

To me, what the Byrd-Griffin amendment does is in no way comparable to the Gulf of Tonkin resolution. If I had even the slightest suspicion that that would be the result of this amendment to the Cooper-Church amendment, I would vote against it unhesitatingly.

On the basis of the explanation made by the distinguished Senator from West Virginia (Mr. BYRD) and because of the different questions that have been raised here and answered, and because of the statements made by the distinguished Senator from Kentucky (Mr. COOPER) and the distinguished Senator from Idaho (Mr. CHURCH), it appears to me

that we have no fear that this will impinge on or impugn in any way the President's constitutional responsibilities as President, including those of Commander in Chief.

What Cooper-Church with the Byrd amendment does say is that the Senate and Congress have a part to play, have a constitutional responsibility in connection with preventing the spread of the war into Cambodia. What we are endeavoring to do in the Cooper-Church amendment is to try to revive something which I think has lapsed, something which I think has lain dormant, and something for which I think we have been responsible.

What we are endeavoring to do is to extend the hand of cooperation, to strengthen the position of the President with regard to terminating the U.S. involvement in the war in Indochina, even though there are Members in this Chamber who will not believe it. I think Cooper-Church with the proposed Byrd amendment is one way it can be done, one way it should be done, and I unhesitatingly favor the adoption of the pending amendment.

Mr. JAVITS. Mr. President, will the Senator allow me to finish a question that the Senator from West Virginia did not answer?

Mr. CHURCH. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 4 minutes.

Mr. CHURCH. I yield 4 minutes to the Senator from New York.

Mr. JAVITS. I should like to restate the question to the Senator from West Virginia. Is there anything in his amendment, in his judgment, which will impugn or abridge the authority of Congress with regard to the preservation of the lives of American troops, wherever deployed?

Mr. BYRD of West Virginia. No. At the same time, it recognizes that the Commander in Chief has authority, constitutionally given, to act to protect American lives in emergency situations and in some situations which would be so dire and immediate as to rule out any prior consultation with Congress.

Mr. JAVITS. But whatever authority Congress has, it keeps. Is that correct?

Mr. BYRD of West Virginia. Of course.

Mr. JACKSON. Mr. President, I shall join the sponsors of the Cooper-Church amendment, and the Senator from West Virginia, in voting for the pending amendment.

I am at a loss to discover why such an amendment is necessary. Surely no one in the Congress would vote for an amendment that attempted to restrict the constitutional power of the President, any more than one would vote for an amendment to increase the power of the President beyond that laid down in the Constitution.

However, it hardly seems appropriate to oppose language expressing the constitutional authority of the President to protect the lives of U.S. Armed Forces. For this reason I am able to join in this amendment. I am disturbed, however, at the considerable potential for discord and dispute that may well arise out of

the interpretation of the Cooper-Church amendment—a potential for more, rather than less, rhetoric that is in no way diminished by the pending amendment.

Mr. President, it is one thing for the Congress to debate the wisdom of Presidential action and quite another to debate the legality of action taken by the Commander in Chief.

Debate over the wisdom of the President's action in Southeast Asia, with the best possible arguments put forward on both sides, is a central responsibility of the Congress. So is the exercise of constitutionally sound limitations on the discretionary power of the President. But I am convinced, Mr. President, that an extended debate on the floor as to the legality of Presidential action—which could well result from varying interpretations of the Cooper-Church amendment, serves neither the development of wise policies nor the resolution of the deep and divisive differences that cloud the search for wise and prudent policies.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CHURCH. Mr. President, I am prepared to yield back the remainder of my time.

Mr. BYRD of West Virginia. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. BYRD of West Virginia. Mr. President, may I express appreciation to the authors of the Cooper-Church amendment. I have discussed this amendment with them. Never at any time did I seek to have them believe that I was about to offer meaningless verbiage. They knew of my concerns, and I knew theirs. Together, we think we have come up with language which protects the proper exercise of constitutional powers by both the President and the Congress.

In summing up, the able Senator from Idaho has said that the Cooper-Church language addresses itself to the powers of Congress. It does. Yet, by implication, I think it could be interpreted in a way that would contravene the constitutional power of the Commander in Chief to act in emergency situations to protect the lives of American troops. The Byrd amendment would not convey any authority to enter into any new commitment or any new war. It merely recognizes that the President, as Commander in Chief, may act in emergency situations to protect the lives of American forces, and, admittedly, he would decide—he would be the one to decide—when such an emergency situation existed which made it impracticable for him to first consult with Congress. He is the Commander in Chief, and to him would be left that decision.

The PRESIDING OFFICER. Does the Senator from Idaho wish to yield back the remainder of his time?

Mr. CHURCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask

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unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HUGHES). Without objection, it is so ordered.

ADDITIONAL COSPONSOR

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the name of the distinguished Senator from South Carolina (Mr. THURMOND) be added as a cosponsor of the pending amendment.

All time on the amendment has now been yielded back.

The PRESIDING OFFICER (Mr. HOLLINGS). All time on the amendment has now been yielded back.

The question is on agreeing to the amendment, No. 708, of the Senator from West Virginia (Mr. BYRD).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. RIBICOFF (after having voted in the negative). On this vote I have a live pair with the Senator from Rhode Island (Mr. PASTORE). If he were present, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. KENNEDY. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DOBB), the Senator from Tennessee (Mr. GORE), the Senator from Arkansas (Mr. McCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Georgia (Mr. RUSSELL), and the Senator from Texas (Mr. YARBOROUGH) are necessarily absent.

I further announce that the Senator from Nevada (Mr. BIBLE) is absent on official business.

I further announce that, if present and voting, the Senator from Nevada (Mr. BIBLE), the Senator from Georgia (Mr. RUSSELL), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Connecticut (Mr. DOBB), the Senator from Nevada (Mr. CANNON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. DOMINICK) and the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness. The Senator from Illinois (Mr. PERCY) is absent on official business.

If present and voting, the Senator from Colorado (Mr. DOMINICK), the Senator from South Dakota (Mr. MUNDT), and the Senator from Illinois (Mr. PERCY) would each vote "yea."

The result was announced—yeas 79, nays 5, as follows:

[No. 160 Leg.]

YEAS—79

Aiken	Byrd, Va.	Eastland
Allen	Byrd, W. Va.	Ellender
Allott	Case	Ervin
Anderson	Church	Fannin
Baker	Cook	Fong
Bayh	Cooper	Goldwater
Bellmon	Cotton	Gravel
Bennett	Cranston	Griffin
Borgs	Curtis	Gurney
Brooke	Dole	Hansen
Burdick	Eagleton	Harris

Hart	Metcalf	Smith, Ill.
Harke	Miller	Sparkman
Holland	Mondale	Spong
Hollings	Montoya	Stennis
Hruska	Moss	Stevens
Inouye	Murphy	Symington
Jackson	Nelson	Talmadge
Jordan, N.C.	Pearson	Thurmond
Jordan, Idaho	Pell	Tower
Kennedy	Prouty	Tydings
Long	Proxmire	Williams, N.J.
Magnuson	Randolph	Williams, Del.
Mansfield	Saxbe	Young, N. Dak.
Mathias	Schweiker	Young, Ohio
McCarthy	Scott	
McGee	Smith, Maine	

NAYS—5

Fulbright	Hughes	McGovern
Goodell	Javits	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Ribicoff, against.

NOT VOTING—15

Bible	Hatfield	Packwood
Cannon	McClellan	Pastore
Dodd	McIntyre	Percy
Dominick	Mundt	Russell
Gore	Muskie	Yarborough

So the amendment of Mr. BYRD of West Virginia (No. 708) was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MANSFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 743) to authorize the Secretary of the Interior to construct, operate, and maintain the Touchet division, Walla Walla project, Oregon-Washington, and for other purposes.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2062) to provide for the differentiation between private and public ownership of lands in the administration of the acreage limitation provisions of Federal reclamation law, and for other purposes.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 16516) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 17138) to amend the District of Columbia Police and Firemen's Salary Act of 1958 and the District of Columbia Teachers' Salary Act of 1955 to increase salaries, and for other purposes.

ENROLLED BILLS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills and they were signed by the Acting President pro tempore (Mr. METCALF):

H.R. 16298. An act to amend section 703(b) of title 10, United States Code, to extend the authority to grant a special 30-day leave for members of the uniformed services who voluntarily extend their tours of duty in hostile fire areas; and

H.R. 17241. An act to continue until the close of June 30, 1972, the existing suspension of duties on certain forms of copper.

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

The Senate continued with the consideration of the bill (H.R. 15628) to amend the Foreign Military Sales Act.

AMENDMENT NO. 715

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

AMENDMENT NO. 715

On page 9, insert after line 21, the following new section:

"SEC. 14. The joint resolution entitled 'Joint resolution to promote the maintenance of international peace and security in Southeast Asia', approved August 10, 1964 (78 Stat. 384; Public Law 88-408), is terminated effective upon the day that the second session of the Ninety-first Congress is adjourned."

Mr. DOLE. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, as debate on the Foreign Military Sales Act has progressed over the past weeks one point has emerged upon which there has been nearly universal agreement. That point is the superfluous nature and irrelevancy of the so-called Tonkin Gulf resolution.

The Tonkin Gulf resolution is inappropriate to today's realities in Southeast Asia. It is a vehicle of escalation and widening involvement, whereas U.S. operations in Southeast Asia are today directed toward deescalation and reduced involvement in combat. It is the policy device of a previous administration which sought to expand the American presence in Vietnam; whereas the Nixon administration has never relied upon nor invoked the Tonkin Gulf resolution in policy.

The Tonkin Gulf was variously and inconsistently interpreted after its adoption. Some saw it as a purely defensive and narrow-ranged response to a specific incident. Others saw it as a carte blanche mandate with which to enmesh the United States in a full-scale commitment to the South Vietnamese Government. Some considered it a virtual declaration of war.

In the wake of these differing interpretations, the Tonkin Gulf resolution now stands as an obsolete and unused vestige of our foreign policy. It has been rejected by the Nixon administration, and it serves no useful purpose other

June 30, 1970

All other long-stay facilities have increased their mentally ill aged population.

State and Federal Governments are providing expensive institutional care for a great many elderly persons who could be cared for while living in their own residences if there were adequately staffed Community Mental Health Centers to assist them.

Although as Chairman of the Subcommittee on Health of the Elderly, I am particularly concerned with problems of the aged, we must not forget that limited funding for Community Mental Health Centers will affect all age groups.

The Administration proposal calls for no new projects for 1971. The meaning is clear—no new services for the elderly, children, teenagers, young mothers or workmen.

When we consider the mounting stresses of day-to-day living in our society today, we cannot afford to deny the care we have promised.

I urge that the level of funding for staffing of Community Mental Health Centers be raised to fund at least \$20,000,000 worth of approved applications for staffing grants and the development of new projects for older Americans suffering from mental disorders. Only then will the Community Mental Health Centers Act be properly implemented.

[From the New York Times, June 29, 1970]

62 MENTAL HEALTH CENTERS, BUILT OR EXPANDED WITH FEDERAL APPROVAL, FACE DENIAL OF PROMISED FUNDS

(By Sandra Blakeslee)

Citizens' groups interested in mental health in 100 communities around the country are waiting in suspense to hear from the Federal Government in the next few days whether years of painstaking work will end in disappointment.

Each community has either just built a new neighborhood mental health center or has made plans to expand an existing one. Each has had its project approved for staffing funds by the National Institute of Mental Health. Each has raised the necessary matching local money.

But interviews with local and Federal officials in recent days have disclosed that only 38 of the projects will receive the promised Federal grants.

The 62 others, the Government has decided, will be left to dispose of what they have done as best they can. In some cases that will mean abandoning the projects altogether.

The financial dilemma facing these community groups and the officials in Washington who encouraged them demonstrates the complexities and frustration of Federal-local cooperation at a time of economic fluctuation.

TWO FEDERAL POLICIES

It is Federal policy to promote local initiatives. It is also Federal policy to hold down Government spending. The new mental health projects were caught in between.

One of them, the Raritan Bay Mental Health Center at Perth Amboy, N.J., has generated wide community approval.

"We have had every community action group going supporting us on this thing," said Dr. Robert P. Nanno, interim director of the center. "We've covered every angle we could think of in terms of supplying the mental health needs of the people in the community."

The new center, constructed at Federal expense and meant to serve 200,000 people from South Amboy, Woodbridge and Cartaret as well as Perth Amboy, has taken four years to plan, Dr. Nanno said.

The center is to provide a day hospital program; two classrooms for disturbed children; a children's clinic; an adult clinic for drug addiction and alcoholism; six poverty-area centers; a 24-bed inpatient ward at a nearby hospital; a 24-hour crisis

walk-in clinic; a crisis intervention telephone service; an aftercare clinic for patients released from state mental hospitals, and family planning, immunization and prenatal care services.

\$592,000 IN LOCAL FUNDS

The price to the community for these mental health services is \$592,000 for the first year. The money has been raised. Some people have been hired, others have been promised jobs. But now the Federal contribution, \$808,000, is in doubt.

"We're in the ridiculous and disgraceful position of having a building and maybe not being given the operating money that was promised," said George Otlowski, supervisor of Middlesex County.

If the Raritan Bay Mental Health Center does not get the Federal grant, Mr. Otlowski said, the new two-story building with its polished halls and brick facade may be turned over to the police for use as a training academy.

How did all this happen? According to officials at the National Institute of Mental Health, and at the Department of Health, Education and Welfare, the answer is a case study in the pull and haul of Federal budget-making.

In the fiscal year 1970, which ends tomorrow, the mental health institute was allocated about \$47.5-million in staffing grants to mete out to both continuing centers that had been guaranteed aid and to new or expanding centers that had only been promised aid. After the continuing programs were accommodated, \$19.3-million was left.

125 NEW REQUESTS

During the fiscal year, 125 new grant requests were made and approved by a reviewing committee at the institute. The committee considered only whether the community projects were ready to get under way.

But the \$19.3-million would fund only 63 of these projects. To pay for all 125, the institute said, an additional \$20-million would have been necessary. In the past the extra money might have been advanced from the next fiscal budget, but this time no funds were available.

Of the 63 projects that will be funded, 25 have already been notified. Thus 38 "winners" and 62 "losers" are still waiting to be told.

According to officials at the institute, decisions on which projects would receive funds were based on such factors as participation in model cities programs (affiliated centers were given priority) and need as determined by state recommendations. An attempt was made to give each state at least one grant, officials said. Politics, they said, played no part in the choices.

In his 1971 budget message last January, President Nixon asked for no new construction funds for community mental health centers but he did request \$60.1-million for staffing grants.

Thus at first glance it would seem that the institute had money in the new fiscal budget to pay for new staffing grants. But that is not the case. The funds will go to continuing programs, which the institute is obligated to support.

ACTION BY CONGRESS

As another complicating factor, Congress has amended the Community Mental Health Act to authorize increased spending (As distinct from appropriating increased funds) for construction and staffing of neighborhood mental health centers.

Despite the tight budget, institute officials say, Congress has thus encouraged communities to keep planning, building and expanding mental health centers.

The authorized funds have not and may not ever come through, the officials say, but they are now obligated to make provisions for grants at the new, more expensive levels.

President Nixon, as he signed the legisla-

tion last March, voiced reservations, saying he thought that it would raise false hopes and that Congress could not be expected to appropriate the authorized funds.

The President's budget request of \$60.1-million is now before committees in both the House and Senate. Informed sources at the institute are hopeful that Congress will increase their appropriations despite the President's objections.

But what Congress appropriates and what the Bureau of the Budget ultimately allocates, they say, may be two quite different figures.

Meanwhile, in Perth Amboy and presumably other communities awaiting word on the fate of their mental health projects, suspense is beginning to be colored by bitterness.

"It is quasi-criminal," Mr. Otlowski said, "to give people this kind of hope, to put up the building and then have it stand there like some monument for pigeons."

TRIBUTE TO SENATOR MANSFIELD

Mr. HARTKE. Mr. President, that the distinguished Senator from Montana has served as majority leader longer than anyone else in the history of the U.S. Senate is itself a fine testament to his leadership.

But as one listens to the tributes which are now being paid to MIKE MANSFIELD, it is most striking that a prominent political leader is known by such qualities as courtesy, gentlemanliness, patience, and fairness. These warm endorsements come from political opponents as well as from fellow Democrats.

This is as it should be. For MIKE MANSFIELD, as much as any other man who has served in this body, combines the qualities of decency and strength. His kindness, his fairness, and his patience have truly been the source of his greatness in the political life of our Nation.

I join my colleagues to thank the Senator from Montana for the service he has rendered this body. Above all, I wish to thank MIKE MANSFIELD for being the man that he is.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHURCH. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

The PRESIDING OFFICER (Mr. EAGLETON). The hour of 11 o'clock having arrived, the Chair lays before the Senate the unfinished business which the clerk will state.

The ASSISTANT LEGISLATIVE CLERK. H.R. 15628, to amend the Foreign Military Sales Act.

The Senate resumed the consideration of the bill.

PRIVILEGE OF THE FLOOR

Mr. CHURCH. Mr. President, I ask unanimous consent that, during the course of the ensuing debate on the pending business, I may have the assistance of three staff members: Mr. Norvill

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told, if funds are not forthcoming, the newly constructed building may be turned over to the police to use as a training academy.

Here we have only one example of a crisis that affects not only the present and potential patients in such Centers but also the professionals who staff them and who worked long and hard to develop the urgently needed programs that are underway in some Centers and are planned for others. I might add that this development should generate a crisis of conscience among those of us in the U.S. Senate who sponsored and voted for the Community Mental Health Centers Act and who recently voted for its expansion and continuation.

Mr. President, the New York Times article is not the only expression of concern I wish to bring to the attention of Congress today.

On June 22, the Senator from Maine (Mr. MUSKIE) also provided powerful arguments for providing adequate funding. As chairman of the Senate Special Committee on Aging, I was deeply moved by the distinguished Senator's arguments. He spoke as chairman of our Subcommittee on Health of the Elderly, but his statement to the Senate Appropriations Committee provides very specific examples of the high cost of underfunding. He reminded the Appropriations Committee, for example, that if Federal participation in Community Mental Health Centers is allowed to stand at this low level, all age groups will be affected—the crisis is not narrowly limited to any one population group.

Mr. President, the mentally ill of the Nation do not need buildings constructed as monuments to their leaders' concern; they desperately need the help, treatment, and care that was promised them under the Community Mental Health Centers Act of 1965 and reemphasized in the Community Mental Health Centers Amendments of 1969.

We should also recognize that to construct buildings with Federal funds and then render those same buildings inoperable is an intolerable waste of Federal funds, time, and effort.

I feel that Senator MUSKIE's arguments for increased funding for the staffing of Community Mental Health Centers are timely and provocative. They deserve our widespread attention and consideration, along with the informative article in the New York Times.

Therefore, I ask unanimous consent that the statement of Hon. EDMUND S. MUSKIE, "Entitled in Support of Appropriations for Staffing of Community Mental Health Centers" and New York Times article, entitled "62 Mental Health Centers, Built or Expanded with Federal Approval Face Denial of Promised Funds," be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR EDMUND S. MUSKIE
IN SUPPORT OF APPROPRIATIONS FOR STAFFING OF COMMUNITY MENTAL HEALTH CENTERS

A member of the U.S. Senate Committee on Aging and Chairman of the Subcommittee on Health of the Elderly, I am most concerned about the low level of funding re-

quested for the staffing of Community Mental Health Centers.

The Administration is requesting \$60,100,000 for staffing grants to Community Mental Health Centers in 1971, an increase of \$12,550,000 over the 1970 estimate. However, because of the low level of funding appropriated to Community Mental Health Centers in 1970, the National Institutes of Mental Health has informed the Committee on Aging that they now have \$20,000,000 more approved applications for staffing grants than they can fund.

The proposed \$60,100,000 will provide only continuation grants to those Centers with staffing grants already in operation. No funds have been proposed for new projects.

This has serious implications for the elderly in this Nation who are suffering from varying degrees of mental disorders.

Of the 165 Centers now in operation throughout the country, only 30 have special geriatric programs. It is safe to assume that the elderly are already on the low end of the priority ladder in Community Mental Health programs.

This may be true because it is very difficult to recruit trained professionals to work with older mentally ill individuals. The cure is less dramatic—the treatment of an older person makes heavy demands on the time and patience of workers, therapeutic gains are usually smaller and the mental illness is often complicated by chronic physical ailments.

It takes time to discover what is troubling an older person—perhaps he is hard of hearing and the psychiatrist has to repeat his questions many times, his so-called "hallucinations" may in fact be due to an advanced state of undetected diabetes; his "wanderings" and loss of memory may be the result of brain damage caused by a stroke.

Obviously, specialized treatment programs are necessary for these older patients. Some already in practice in the 30 Centers with geriatric programs include: sheltered workshops which help provide the older patient with a sense of usefulness and worth, coordinated medical and psychiatric treatment in order to determine the degree of actual mental disorder and the extent of physical illness, and intensive outreach services to find mentally impaired older citizens in the community and make them aware of this service.

Outreach is a most important component of any service program for recent studies indicate that the elderly may be less likely to make use of Community Mental Health Centers than younger persons. The National Institute of Mental Health reports that anywhere from 15 to 25 percent of elderly persons living in their own residences have some degree of mental disorder and that a minimum of 8 percent of these individuals are known to be severely disturbed. Yet, the number of aged persons using outpatient psychiatric clinic services is only 2 percent of the overall population.

There are some good reasons for this underutilization. First, older people are frightened and embarrassed at the thought of being treated for mental problems. Second, many—especially the poor and the isolated—are unaware that the services exist. And third, the same problems keep older people from taking advantage of these services which keep them from participating in other social programs: lack of income and poor transportation facilities.

Lack of adequate staffing for community mental health centers can create the greatest difficulties of all.

In far too many instances, the elderly person, directed to a local community health center by family or friends, arrives at that center only to wait for hours for an appointment. After a cursory examination by a psychiatrist or psychiatric social worker, who probably has no knowledge of geriatric psy-

chiatry and who is overworked because the center is understaffed, the professional decides that there is nothing that he can do except perhaps prescribe tranquilizers for "depression" as the elderly person is, in his opinion, hopelessly "senile."

The professional, unfamiliar with geriatric psychiatry, does not ask about eating habits, social contacts, living conditions, or physical health—nor does anyone else at the center. This is not due to unfeeling negligence on the part of the staff. It happens all over the country in every outpatient psychiatric clinic or mental health center where there is not a specialized geriatric program simply because no one on the staff is trained to work with older people.

The elderly individual leaves the center discouraged and humiliated, without having his problems acknowledged or alleviated. He is not likely to return to that clinic should his condition worsen; he is much more likely to end up in a state mental hospital or nursing home, at great expense to State and Federal government.

We must also consider the relationship between the lack of adequate community mental health centers and the increasing efforts of State mental hospitals to rehabilitate elderly patients. In the past ten years, most have stopped the practice of "dumping" older patients into back wards to languish with no care for years. They are making great efforts to get these patients back into the community.

This is a most welcome development, however we must consider what "community" means to the older person who has spent years in a mental hospital.

Because there is often no place in the outside community where an older mental patient can continue his rehabilitative treatment, to him the "community" means a nursing home where he more than likely receives custodial care—that is, no care. Thus, all of the rehabilitative efforts by the State hospital are wasted and the patient finds himself, in effect, in another back ward.

The National Institute of Mental Health estimates that 55% of the residents in nursing homes and related facilities serving the chronically ill are mentally impaired. In researching a forthcoming report on Mental Health and the Elderly, the Committee on Aging staff found that this may well be a conservative estimate. When asked by the Committee staff for the number of mentally impaired persons residing in their facilities, several nursing home administrators replied that at least 75% of the patient population was mentally impaired to some degree and that 25-40% were severely disturbed.

Many of these people could be treated in the community—if there were facilities in the community to treat them.

The Community Mental Health Centers were meant to be just such facilities. If the Centers were adequately staffed with trained personnel, thousands of Federal and State dollars could be saved in institutional care alone. Hundreds of thousands of individuals—young and old—could be saved from the agony of mental illness.

When I talk about saving the State and Federal Government thousands of dollars, it is not wishful thinking. The most recent estimated cost of mental illness in the United States—1963—was \$7 billion of the total cost of all illness. More than \$2 billion was spent directly for hospital and physician services and the remaining \$5 billion represents estimated economic losses in productivity of persons who died or became disabled as a result of mental illness.

As of mid-1963 in the United States, about 292,000 persons aged 65 and over with mental disorders were resident in long-stay institutions—state mental hospitals, homes for the aged, nursing homes and convalescent hospitals. The only place that number has decreased has been the State mental hospital.

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Jones, Mr. Bob Dockery, and Mr. Tom Dine, two of whom being from the Foreign Relations Committee, the other of whom being my legislative assistant for foreign affairs matters.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The pending amendment is that of the Senator from Michigan, on which there is a time limit of 1 hour, starting now.

Who yields time?

Mr. MANSFIELD. Under whose control?

The PRESIDING OFFICER. Under the control of the Senator from Michigan and the majority leader, or his designee.

Mr. MANSFIELD. Mr. President, I yield the total of my time to the distinguished Senator from Idaho (Mr. CHURCH).

Mr. GRIFFIN. Mr. President, I yield such time as he may wish to consume out of the time allotted to me to the distinguished Senator from Washington (Mr. JACKSON).

The PRESIDING OFFICER. The Senator from Washington (Mr. JACKSON) is now recognized.

Mr. JACKSON. Mr. President, among other things that are disturbing about the present language of section three of the Cooper-Church amendment is the possibility that, under that section as it stands, South Vietnamese forces would be prohibited from entering Cambodia. This may not be the intent of the sponsors; but the intent of the sponsors is not clear from the wording of section three. The present language that requires that no funds be spent "to provide persons to engage in any combat activity in support of Cambodian forces." Is a South Vietnamese soldier who enters the sanctuaries acting "in support of Cambodian forces"? Suppose that these sanctuaries harbor men and materiel which could be used against either U.S. and allied forces in Vietnam or the Government of Cambodia?

Beyond the immediate circumstances in Southeast Asia, the Cooper-Church amendment as it stands raises serious questions about the future of regional security. The other side in the conflict has adopted no such strictures. It is well known that the North Vietnamese in Cambodia are receiving support from the Soviets and the Chinese. While they are engaged in a war of expansion, one would certainly not call these North Vietnamese forces "mercenaries." There is little doubt that they are there because their government considers it in their interest to be in Cambodia. There is little doubt that they would not be there if Chinese and Soviet support to North Vietnam did not make it possible. But they choose to engage in "regional aggression."

If we wish to look to a future in which regional security arrangements can be substituted for an American presence, then we must keep open the option of the President to assist nations desirous of joining together for mutual security—a principle, I might point out that has been enshrined in the charter of the United Nations.

Now I suspect that the objection to this line of reasoning is that we should not pay large allowances and bonuses to third country forces in order to obtain their combat support in Cambodia. I agree with that.

Perhaps the most famous analysis of the inutility of mercenaries is that of Machiavelli as set forth in *The Prince*. I think it useful to quote from Machiavelli on the subject of mercenaries.

If a Prince—

Machiavelli wrote:

continues to base his government on mercenary armies, he will never be either stable or safe; they are disunited, ambitious, without discipline, disloyal, valiant among friends, among enemies cowardly . . .

The reason for this is that they have no love for you nor any cause that can keep them in the field other than a little pay, which is not enough to make them risk death for you. They are eager to be your soldiers as long as you are not carrying on war, but when war comes, eager to run away or to leave.

According to Machiavelli, mercenaries have no cause that can keep them in the field other than a little pay. This is certainly not true of South Vietnamese forces who enter Cambodia in defense of their country. This is certainly not true of the Khmer forces, nor is it true that those forces are unwilling to risk death.

I share Machiavelli's view that the use of mercenaries is likely to be ineffective and even ruinous. Mercenaries, in his understanding of that term, should not be supported by the United States in Southeast Asia—or anywhere else, for that matter.

Unfortunately, section 3 of the Cooper-Church amendment is now drafted so broadly as to raise doubts about whether we can act to make it possible for even the South Vietnamese to enter Cambodia as part of their own defense.

The broad language also raises doubts about whether we could support ethnic Cambodians, such as the Khmer forces, who wish to assist in the defense of their own country from invasion and who, in no sense, should be considered mercenaries. The Khmer are highly motivated; well trained and an extremely effective fighting force. Moreover, they are fully integrated into Cambodian forces; and, although their numbers are not large—perhaps 2,000—they are now a significant element in their country's defense. They receive, for their efforts, \$56 per month, hardly a mercenary wage. If anything, the Khmer tribesmen more closely resemble the case of Americans residing abroad returning to the Colonies to fight the British.

It is all very well to talk about bonuses and allowances as the device by which we convert foreign troops into mercenaries. I share the sponsors' abhorrence at the enrichment of foreign officers to induce them to fight in Southeast Asia. But section three of the Cooper-Church amendment does not mention bonuses and allowances. It does use the word "provide," and that is a much broader term than objection to bonuses and allowances would suggest.

It is curious, in fact, that the drafters of the Cooper-Church amendment were quite precise in their wording of section two, where they speak of "compensation or allowances," while they are strangely vague in section three.

I believe, Mr. President, that if we want to assure that the Cooper-Church amendment will not stand in the way of legitimate support to forces sent to Cambodia by their own governments, Cambodia by their own governments and in the interest of their own governments, we must adopt the pending amendment. We should not now, when we are disengaging from Southeast Asia, pass into law a prohibition that could diminish the prospects for regional security arrangements.

Mr. President, I hope that the amendment will be adopted.

Mr. GRIFFIN. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER (Mr. GRAVEL). The Senator from Michigan is recognized for 5 minutes.

Mr. GRIFFIN. Mr. President, I commend the distinguished Senator from Washington, who is one of the most knowledgeable men in this body concerning military affairs, upon his very logical and persuasive statement. I wish to underscore particularly his point that subparagraph (2) of the Church-Cooper amendment speaks directly in terms of paying the "compensation on allowances" of personnel in Cambodia.

As he says, if subparagraph (3) were directed only to the "mercenary" issue, so-called, an emotional argument that has been thrown out, it seems clear that the authors would have used the words or phrase "compensation or allowances." But they did not. They used broader language in subparagraph (3), to which the pending amendment is directed.

The distinguished Senator from Washington (Mr. JACKSON) points out that the reach of subparagraph (3) of the Church-Cooper language is bound to be much broader than the so-called mercenary argument.

Mr. President, in view of the time limitation and the fact that I presented my principal arguments for the amendment only yesterday, I shall not speak at length this morning but I shall reserve some of the allotted time in order, perhaps, to respond later to arguments that may be presented against the amendment.

Mr. SCOTT. Mr. President, will the distinguished Senator yield me 3 minutes.

Mr. GRIFFIN. Mr. President, I yield 3 minutes to the distinguished minority leader.

Mr. SCOTT. Mr. President, the one principal obstacle remaining at present in the Cooper-Church amendment, in my view, is the attempt to undermine the Guam doctrine, the Nixon doctrine. And while we disagree respectfully here on the meaning of the amendment, I cannot help coming to the conclusion myself that it is not wise for the Senate to attempt to amend an Executive doctrine, a policy of this kind, in this way.

The essence of the Nixon doctrine is that Asians should be allowed to help Asians, that we should withdraw from our

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commitments on the territories of Asian nations.

The President has kept his promise to withdraw from Cambodia. And that is a fact—an indisputable and uncontroversial fact.

He has again kept his promise; and this expedites the end of the war.

If the Griffin amendment is agreed to, I see no personal objection to the Cooper-Church amendment. However, it has to be said that the President endorses no amendment.

I know of no change in the position of the White House. But if the Griffin amendment is agreed to, it seems to me that the Cooper-Church amendment no longer prevents Asians from helping Asians. And in view of the other aspects of the amendment, it does indeed protect the right of the President to protect American forces in Southeast Asia in the process of withdrawal.

But without the Griffin amendment, of course the reverse is true. Therefore, I would hope that many of our colleagues, including those who favor the Cooper-Church amendment, would find it possible to support the Griffin amendment. It is reasonable. It is just. It is in keeping with the national policy enunciated and broadly supported in the United States. And as I said yesterday, with respect to the argument of mercenaries, we so readily fall into semantic traps in our debates in the Senate.

The Poles who went to Scotland to train and then returned to the continent of Europe were not mercenaries. At least the Scottish girls did not so regard them.

The PRESIDING OFFICER (Mr. GRAVEL). The time of the Senator has expired.

Mr. GRIFFIN. Mr. President, I yield an additional minute to the distinguished minority leader.

Mr. SCOTT. Mr. President, the free French who returned to the territories of Europe were not mercenaries.

VE Day was not an invasion or threat to free peoples.

When the United Nations moved to repel aggression in Korea, not only the United States went there, but other nations also did the same.

The Turks who went there were not mercenaries.

The Colombians who went there were not mercenaries.

I have never heard anyone say that the South Koreans are mercenaries because of their participation in South Vietnam. It is a matter of Asians helping Asians.

And I cannot for the life of me understand the point of this matter, which seems to me to be intransigent, that we cannot accept this kind of amendment because we do not want mercenaries.

The PRESIDING OFFICER (Mr. GRAVEL). The time of the Senator has expired.

Mr. GRIFFIN. Mr. President, I yield 2 additional minutes to the minority leader.

Mr. SCOTT. Mr. President, finally, it is my hope, as I have said many times, that the Senate be given an opportunity to express itself on the war. But I do not see why the Senate would want to express itself in such terms as to tie the

hands of Asians in an effort to maintain, if possible, what is left of the neutrality of Cambodia, in an effort to let the Thais and the South Vietnamese help the Cambodians.

I do not think the United States should be in there. I am glad they are out. I would not favor their return. In my judgment, the U.S. ground forces are not going to return to Cambodia. The Secretary of State has said so.

This administration has maintained its credibility. It has kept its promises. It is keeping its promises.

As the distinguished minority leader of the House of Representatives said the other day, he hopes that the President will announce this year even greater withdrawal of forces from Vietnam than heretofore indicated.

Mr. President, I join in that expression of that hope, if it is at all possible. The sooner we get out, the better.

Our differences are not in the goals of our people. Our differences are in the way to achieve them and in how the Senate expresses its wishes.

I believe the Senate can express its wishes without damaging the President's position if we make the Cooper-Church amendment far more palatable and acceptable by accepting the Griffin amendment.

I thank the distinguished Senator from Michigan for yielding.

Mr. CHURCH. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER (Mr. GRAVEL). The Senator from Idaho is recognized for 3 minutes.

Mr. CHURCH. Mr. President, the distinguished minority leader has said that the Nixon doctrine's essence is that Asians should help Asians.

Nothing in the Cooper-Church amendment would prevent Asians from helping Asians. Nothing in it prevents Thailand, if it deems it to be in its own national interest, from sending Thai troops into Cambodia to assist the Lon Nol regime. Nothing in it prevents South Vietnam, if it deems it to be in its own interest, from sending South Vietnamese troops into Cambodia to support Cambodian forces.

In fact, the only requirement of the Cooper-Church amendment is that the United States not hire—I repeat, not hire—these troops to fight in Cambodia.

The distinguished minority leader objects to the use of the term "mercenaries." Yet, I submit that this is the definition of the term.

Perhaps the United States should embark upon a policy of hired guns in Southeast Asia, but I personally do not think so. I believe it would be a grave national mistake. It would be an indirect way of injecting ourselves deeper into the Cambodian flank of the Indochina war via the process of creeping involvement; its profound political implications should be carefully considered and weighed.

The Church-Cooper amendment prohibits the President from embarking upon a policy of hiring mercenaries in Cambodia by secret arrangements, as was done, in fact, with respect to the Korean, Philippine, and Thai troops that were sent into South Vietnam.

The Cooper-Church amendment pre-

scribes, in accordance with the Constitution that, if the President chooses to convert the Nixon doctrine into a policy of "Hessians Unlimited," he should come to Congress and present his case, and ask for congressional concurrence. That is after all, what the Constitution intended.

If we are to perform our duty under the Constitution, then we should reject the amendment of the Senator from Michigan.

I would like to discuss one other point about the so-called Nixon doctrine. The minority leader says we would be tampering with a Presidential doctrine if we left the Cooper-Church amendment in its present form. It is his position that Presidential doctrines should be self implementing and that Congress should have no role, other than accepting en toto the doctrine as pronounced by the President. I submit to the distinguished minority leader that the Constitution lays upon the Congress not only the right but the duty to participate in the definition and implementation of the Nixon doctrine or any other Presidential declaration concerning American policy abroad.

I remind the Senate that when the President first announced this doctrine to the country he said nothing about mercenaries. I defy Senators to find a single reference to mercenaries in the Presidential statement. He said we shall supply military weapons and equipment to governments in Asia that are willing to fight for themselves. That could be a viable and valid cause. I hope we do not distort it, through the adoption of the Griffin amendment, into something quite different, that is, into a policy of hiring foreign troops to fight a war by proxy for us in Cambodia.

I urge the Senate to reject the amendment offered by the Senator from Michigan.

Mr. SCOTT. Mr. President, will the distinguished Senator yield himself time so he can yield to me?

Mr. CHURCH. Mr. President, I yield myself 2 additional minutes.

Mr. SCOTT. Mr. President, what intrigues me—

Mr. CHURCH. Is this a question?

Mr. SCOTT. It is a question, yes. I have to lay the groundwork.

What intrigues me is the reference—the somewhat inflammatory reference—to "Hessians Unlimited." As a matter of fact, the U.S. Government is now supplying military aid and funds which do support the West Germans, including the Province of Hesse-Cassel; and we are, in effect, by the Senator's definition, aiding Hessians in Germany, and I gather he thinks that is all right.

Mr. CHURCH. That is where Hessians belong.

[Laughter.]

Mr. SCOTT. That is right, and that is where they are getting U.S. help.

Does not the Senator feel that supplying military aid to the Middle East and supplying military aid to West Germany is the same sort of thing as aid to Asians to help Asians; and why would we make a distinction and refuse to help one part of the world while we are per-

fectly willing to commit ourselves, as we should be, to help other parts?

Mr. CHURCH. I see a vast difference between giving military weapons and supplies to governments with which we are allied that are willing to defend themselves, and hiring mercenary troops to fight in a third country.

If the Senator sees no distinction between these two policies, he and I are simply in irreconcilable disagreement.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CHURCH. Mr. President, I yield 5 minutes to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, I do not believe we have obligations all over the world and, certainly, as far as our 515,000 U.S. troops and dependents in Western Europe, I think it is entirely too large a number. We have no obligation to maintain such a force there nor do we have an obligation to expend \$14 billion of the Defense budget to do so.

Machiavelli has been referred to during the course of debate. Machiavelli was noted for his deviousness and slyness. What the Cooper-Church amendment seems to do is lay the cards on the table so there will be no misunderstanding.

We have no obligation to defend Cambodia; there are no treaty commitments, no executive agreements, no obligations of any sort between the United States and Cambodia.

The Cooper-Church amendment was intended to preclude U.S. commitment to a new war in Cambodia, at least to the extent that there should be no war without prior consultation between the President and Congress.

The Cooper-Church amendment precludes an ongoing U.S. commitment to Cambodia in two ways: First, under subsection (2) it prohibits the use of U.S. personnel in Cambodia to engage in combat or to offer military instruction. We have 17 military attachés at this moment in Phnom Penh. Second, subsection (3) prohibits the United States from employing the forces of other nations for war service in Cambodia.

It is section (3) that the Griffin amendment seeks to nullify.

The Griffin amendment would allow us to contract with the forces of other nations in order to carry on the war in Cambodia—without the approval of Congress.

So in effect the Griffin amendment would accomplish by indirection what the Cooper-Church amendment seeks to prevent directly.

Cooper-Church does not prevent other nations from assisting Cambodia with troops, with supplies or whatever.

Cooper-Church does not prevent outright our own Nation from arming Cambodia—so long as the Congress consents to a war in that nation.

The present Cooper-Church amendment does not ban mercenaries: it just says that if mercenaries are needed to implement our national policy then the Executive and the Congress will be jointly involved in that decision.

Why is a blank check sought to give the executive branch in advance the authority to hire mercenaries?

Where are these mercenaries presently needed to fight?

The advance authority to hire mercenaries in no way can be justified under the Commander in Chief argument; the argument that the Commander in Chief must be given the authority to make the fast-breaking tactical decisions to repel attack or to pursue attacks.

The most deliberative of situations is the contractual negotiations that lead to the specified payment for the mercenaries.

The recent disclosures of the amounts paid by the United States to the Thais and others, and it is all in the Record—for fighting in Cambodia is most revealing.

The overseas allowance paid to the Thai is many times what is paid to our own fighting men. Whether this is a good contract or not is open to question—but the arrangements that were made certainly reflect that they were negotiated in secret and without inhibition.

Never has a policy of hiring mercenaries to implement a national policy been successful through history.

Nor with the Cooper-Church amendment are we saying to the world that we are unwilling or unable to assist nations that seek to help Cambodia.

The Military Assistance Act, the Foreign Assistance Act, the Military Sales Act—all of these laws give the President authority to help any nation in the President's discretion. About \$1.5 billion is available for this purpose this year alone.

What the Cooper-Church amendment does prevent is the direct hiring by the United States of foreign troops to fight in Cambodia. To do that, Congress must first approve.

It prevents the employment of mercenaries.

We in this Nation should be particularly sensitive to the use of hired troops—it was the Hessian hired by the British who fought against our forefathers to prevent our independence and the freedom we cherish so much.

Mr. GRIFFIN. Mr. President, how much time remains on each side?

The PRESIDING OFFICER. The Senator from Michigan has 13 minutes remaining. There are 17 minutes remaining to the Senator from Idaho.

Mr. GRIFFIN. Mr. President, I wonder if the Senator from Idaho would agree to yield time, in view of the fact that he has more time remaining on that side.

Mr. CHURCH. Mr. President, I have received several requests, making that difficult.

I am happy to yield next to the distinguished chairman of our Foreign Relations Committee.

Mr. FULBRIGHT. Mr. President, the majority leader has stated the case extremely well. I call the attention of my colleagues to the table I inserted in the Record yesterday, which appears on page S10151 of the Record, showing how much we pay the Thais relative to what we pay our own people.

We had three agreements to pay troops. The agreement with the Thais was one of the larger ones, and we had

agreements with the Koreans and the Filipinos. Not only is it extremely expensive, but I do not think it is very effective.

I do not approve of this practice, but if the President expects to control South Vietnam and to keep it as one of our possessions and under our control, I think this is a very ineffective and very improvident way to do it, I do not believe our experience with the Filipinos and the Thais as fighting allies has been successful. The Koreans have fought better, but they have also cost a great deal more.

The only argument that has been made is that if we must keep Americans there, it is better to have Asians killed and wounded than our own people. That is on the assumption that we are determined to stay there. If this is going to be a permanent occupation, then that argument would have some validity. But if the President means his stated policy that he expects to withdraw from Southeast Asia, then it seems to me an extremely improvident thing for the Senate to authorize allowing this Government to hire other soldiers to do our fighting.

As the majority leader said, the bill does not prohibit our doing it; all it requires is that Congress be consulted and know about it. We did not know what was done in the Philippine, Korean, and Thailand matter until long after the fact.

The original reason for hiring those soldiers was not that we needed them or because they were good soldiers. It was to create the impression—this happened under the previous administration, under Mr. Johnson as President and Secretary of State Rusk—that other Asian countries were all behind us as a political matter; that is, that they were in complete accord with our policy of occupying and controlling South Vietnam—which in my opinion was not the case, I believe if they had not been paid the exorbitant allowances, which are set out in the Record of yesterday, they would not have been interested in fighting.

It was exactly the same with Honduras and its alleged aid to South Vietnam. They were not about to send this small planeload of materials to Vietnam unless they were paid for it. We picked it up and paid all the expenses.

It was to create the impression—Secretary Rusk used to boast of it—as to how many countries approved of our policy. Very few of them approved of it whom we did not pay. Most of those who approved of it were recipients of large amounts of our money.

That was the origin of the policy in Vietnam of paying other troops. I hope the President would not continue that policy. But if the administration is to continue it, I cannot imagine why it would not want to do so under the provision that Congress be brought into the matter and authorize it.

With the Cooper-Church amendment, we still have the option of authorizing it at a later date when it is needed.

As the majority leader said, there is no evidence whatsoever as to who the administration is going to hire to pay. In view of the extreme exigencies in our money market, and the bankruptcy of one of our largest corporations, I cannot

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imagine that we would approve of this improvident way to spend the kind of money in the future as we have been paying the Thais and the Koreans.

Mr. GRIFFIN. Mr. President, I yield 3 minutes to the distinguished Senator from Colorado.

Mr. DOMINICK. I thank my friend from Michigan.

Mr. President, some time ago, probably 10 days or 2 weeks ago, I had a colloquy on the subject which we are now discussing with the distinguished Senator from Kentucky (Mr. COOPER). The chairman of the Foreign Relations Committee, to the best of my recollection, was not here at that time, but the distinguished Senator from Idaho was, and both Senator COOPER and Senator CHURCH stated rather unequivocally during that colloquy that section (3) as it is now written would prevent us from giving any assistance to people who were engaged in a joint Asian defense effort.

This would include, as I understand it, the Thais, who might want to come to the aid of Cambodia, or the South Vietnamese, who might want to come to the aid of Cambodia. It would almost certainly preclude any Koreans who might want to do that.

In my method of thinking, it sharply downgrades the ability of the United States to preserve a geographic entity known as South Vietnam, or to assist any of those Asian nations from being overrun by the North Vietnamese.

I think we should keep in mind in this debate that it is not the South Vietnamese who invaded North Vietnam. It is not the South Vietnamese who invaded Cambodia. It is not the South Vietnamese who invaded Laos. On each occasion it was the North Vietnamese who put their troops and their forces into each one of those countries, doing their level best to overcome the governments of those countries and to run over the top of the people who are living there.

So it seems to me, in terms of sheer equity, if we are not looking at anything else but equity, that there should be an opportunity for those nations to defend themselves and that we who believe in self-determination—should help them determine their own future. I have heard the distinguished chairman of the Foreign Relations Committee speak on many occasions about the value of self-determination. This amendment would give us the option to permit free Asian nations to defend themselves against the North Vietnamese who are well-armed, well-equipped, and imbued with the idea that they are the natural military rulers of Southeast Asia—

The PRESIDING OFFICER. The 3 minutes of the Senator have expired.

Mr. DOMINICK. May I have an additional half-minute?

Mr. GRIFFIN. I yield 1 additional minute to the Senator from Colorado.

Mr. DOMINICK. Unless we adopt the type of amendment the distinguished Senator from Michigan has proposed, we are not going to be able to continue the Nixon doctrine, nor are we going to be able to effectively hold ourselves up as a country which is a leader in the idea of self-determination for other people in

other countries in other areas of the world.

It seems to me that is the fundamental concept we are discussing this morning in the process of considering the pending amendment.

I thank my friend from Michigan for yielding.

Mr. CHURCH. Mr. President, I yield 3 minutes to the distinguished Senator from Kentucky (Mr. COOPER).

Mr. COOPER. Mr. President, the statements of the majority leader (Senator MANSFIELD) and the Senator from Idaho, (Senator CHURCH) have covered thoroughly the purposes of subsection (3) of our amendment. Much has been said about mercenaries. I suppose that one factor which causes us to think so seriously of mercenaries derives from our early history. The Declaration of Independence, recites as one of the complaints of the colonies against the King of England:

He is at this time transporting large Armies of foreign Mercenaries to compleat the works of death. . . .

Mr. President, it is suggested by the Senator from Pennsylvania that subsection (3) of our amendment is not clear. That same suggestion has been made, during this debate to other sections of the Cooper-Church amendment. I feel sure that the purposes of our amendment are very clear to those who oppose it in the Senate, and also to the administration.

Subsection (3) is very clear. It provides that no funds shall be available to contract with another country to provide its nationals for military instruction or combat activities in support of Cambodia in Cambodia.

The only purpose of the Griffin-Jackson amendment is to remove the prohibition of subsection (3) to authorize the United States to provide funds to another country and its nationals for military instruction and combat support in Cambodia. If that is not the purpose, then I think we should know what the purpose is.

The argument has been made that our amendment scuttles the Guam doctrine. I support the Guam doctrine. But I point out that the Guam doctrine is not self-executing. A justification would be made to the Congress before embarking upon a program to support Cambodia, a new commitment to a country to which we owe no obligation.

It is said the military operation is over. I assume it is upon the part of the United States ground troops. There is no obligation to Cambodia. But it is suggested by this amendment—otherwise why are we asked to support it?—that in the future, the United States will make available funds to other countries to send forces into Cambodia, to support Cambodia—a country, I repeat, to which we owe no obligation.

No one could foresee the consequences of U.S. entry into Vietnam. No one can foresee the consequences if the U.S. makes a commitment to support Cambodia. Perhaps it will be for the best; perhaps not. We have had an unhappy experience in Vietnam. The Congress

and the country should have all the facts before a commitment is made.

Our amendment would simply say, as far as the Guam doctrine is concerned, that if there is justification for the United States to embark upon a venture in Cambodia with future unknown, then it is the duty of the administration to come before Congress, present the facts and let Congress exercise its constitutional duty, which is very clear in this case, to deny or give support.

I hope very much that the amendment will be defeated.

The PRESIDING OFFICER. Who yields time?

Mr. GRIFFIN. Mr. President, how much time remains on either side?

The PRESIDING OFFICER. Nine minutes remain to the Senator from Michigan, 7 minutes to the Senator from Idaho.

Mr. GRIFFIN. Mr. President, I yield 3 minutes to the distinguished chairman of the Committee on Armed Services, the Senator from Mississippi.

Mr. STENNIS. Mr. President, I thank the Senator from Michigan.

My remarks are directed to section (3), and the proposal made to amend it by the Senator from Michigan, wherein he adds the words "by U.S. personnel," which limits the application of the section (3).

Mr. President, very briefly put, my thought on the subject is rather broad, and not directed at the immediate situation.

I was in Thailand about the year 1958. This war was not a hot matter at that time. Standing there looking at the map showing the peninsula of Southeast Asia. In thinking over its possible future, it occurred to me that that area would be taken over some day—to be frank about it—by the Chinese Communist, unless there was some kind of an effective league or organization or alliance among those nations of Southeast Asia whereby they could collectively save each other, themselves included.

I have never been in favor of us going in there with military manpower to do all of this fighting. The main thrust of the power and the fighting should come and must come from those Asiatic countries. I still believe that. Those nations are still standing on the brink of being taken over in the course of decades, unless there is some kind of effective organization among themselves that can cope with this situation and protect each other militarily.

To bind ourselves here, with the hard force of law and not permitted even to encourage them—they seem to be wanting to move more now than heretofore in the direction that I have described as necessary—I think we would be making a serious mistake. It is a grave mistake to bind ourselves in the cold hard print of law that we are not going to permit any activity toward encouraging these mercenaries, or whatever you call them, or to encourage or even half finance a coalition between these struggling nations of Southeast Asia.

I believe this is the only practical way, in the long run, for them to save their

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freedom, or save their necks, to save themselves from final engulfment.

I hope we would not add, here, this extreme restriction, although it is written with good faith, that those who wrote section (3) insist on having.

Let us not close the door on them as they finally begin to move.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STENNIS. I thank the Senator from Michigan.

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. Mr. President, I yield myself such time as remains.

The adoption of the amendment proposed by the Junior Senator from Michigan would erase section 3 of the Cooper-Church amendment, and I hope that the Senate will defeat it.

Section 3 of the Cooper-Church amendment simply says that before the United States uses the taxpayers' money to pay the bills for third country forces to fight in Cambodia, the President must come to the Congress to have such a program authorized and funded. Members of this body are well aware of the revelations that have come from the Symington subcommittee hearings concerning the secret arrangements entered into as a part of the high-priced deals that sent military units from Thailand, South Korea, and the Philippines to show their flag in South Vietnam. Surely Senators will agree that the Congress has a right—and a responsibility—to review and pass judgment on any arrangements between the executive branch and another country, designed at our expense to induce, and make it more profitable for, its troops to fight in Cambodia.

Let me make it clear that the Cooper-Church amendment does not—in any way—prevent other countries from coming to the aid of Cambodia. The Thais or the South Vietnamese can use their forces to fight for the Lon Nol government—there is nothing in the amendment to prevent that. And the amendment does not prevent our furnishing military aid—weapons, ammunition, and supplies—directly to Cambodia, as, indeed, has already been done. But the Cooper-Church amendment does prevent—without congressional approval—the kind of undercover arrangements that were used to make it so profitable for Thailand, South Korea, and the Philippines to send their forces to Vietnam.

The Senator from Michigan said yesterday that his amendment does not provide for any additional authority to the executive branch. I agree. Which raises the questions of what the executive branch would like to do in the way of hiring other forces to fight in Cambodia, and what authority it thinks it has to carry out any such arrangements. The authority which was used to pay bonuses to the Thai, South Korean, and Filipino troops in South Vietnam does not apply to Cambodia. And the Foreign Assistance Act certainly does not contemplate the hiring of mercenary forces with foreign aid funds. So it would seem that the President will be required to come to the Congress to ask for author-

ity, regardless of whether the Griffin amendment is adopted. Since that is all that the Cooper-Church amendment requires, I see no point in the Griffin amendment—except as a means of forcing the Senate to give a tentative commitment, in advance, to whatever proposal the executive branch chooses to send up.

I hope that the Senate will not tie its hands in dealing with this issue in the future.

Mr. President, in summary, all that section 3 of the Cooper-Church provision says is that if the executive branch wants to enter into agreements to pay for other nations to fight in Cambodia, that it must come to Congress for approval. Passage of the Griffin amendment would, in effect, put the Senate on record as giving blanket endorsement to a policy, of unknown scope and dimension, of hiring mercenaries to fight a war for the United States in Cambodia. It would tend to tie the hands of the Senate from considering, on the merits, any proposal to implement such a policy that the executive branch may send up to Congress in the future. Finally, it would show that the Senate has learned little from the years of creeping involvement which drew us so deeply into the quagmire of Southeast Asia.

We have had much too much sad experience with blank checks in the past to write another one now. For that reason, Mr. President, I sincerely hope that the Senate will not tie its hands in dealing with this issue in the future and that it will reject the amendment offered by the distinguished Senator from Michigan.

The PRESIDING OFFICER. Who yields time?

Mr. GRIFFIN. I yield myself such time as may remain.

Mr. President, I want to express my appreciation to the distinguished Senator from Washington (Mr. Jackson) for his strong support and his very persuasive arguments, and as well to the distinguished Senator from Mississippi, the chairman of the Committee on Armed Services, who has put his finger, I think, on the principal point involved here.

President Nixon is in the process of withdrawing U.S. troops from Indochina. His program to do that involves two major points. Those two points are the Vietnamization program and the Nixon doctrine. The Nixon doctrine, announced on Guam, said to the nations of Asia, "We are concerned about what happens in Asia, but you can no longer count on U.S. troops to do the fighting to defend you. We will help with economic and military assistance"; and, in effect, it said that we encourage regional security arrangements.

In subparagraph (3) of the Cooper-Church amendment, it seems to me that Congress would be saying, if we were to adopt it, that the Nixon doctrine would apply to every non-Communist nation in Asia except Cambodia, the nation most in need of the application of the Nixon doctrine.

Some say that we have no commitment to Cambodia and that, therefore, we should have no interest in what happens.

But we do have treaty commitments to Thailand, for example, and it is very important to the United States what happens to Cambodia, a neighboring nation to Thailand.

The main focus of the Cooper-Church amendment is on the use of American troops in Cambodia. I can understand and I share the viewpoint of those who say that we do not want U.S. troops used to fight in Cambodia. But I cannot understand the position of those who want to discourage other non-Communist nations in Southeast Asia from coming to the aid of Cambodia. Surely, it is in the interests of getting our troops out of Southeast Asia that we do everything within reason to encourage cooperation and assistance from other non-Communist nations in that part of the world. We should not cut off aid to non-Communist nations because they assume responsibility for regional security.

As it stands, the Cooper-Church amendment, particularly subparagraph (3) is too broad. It lays down a broad prohibition policy. It discourages rather than encourages the kind of regional cooperation and security we want.

The argument has been made this morning that the amendment which the Senator from Washington and I have cosponsored would provide some blank check authority. It would do no such thing. The pending amendment to the Cooper-Church amendment would not grant any new authority whatsoever. Indeed, it would grant no authority. It would merely nullify and strike out a prohibition policy which is laid down in the Cooper-Church amendment. It would keep the options open; it would keep the doors open.

Congress still must approve foreign aid authorization, foreign aid appropriation legislation. In those hearings, in the discussions, the arguments can be made as to how much foreign assistance should be provided. But let us not, in the Cooper-Church amendment, say to the world, and particularly to the free Asians of Asia, "We will not help you"; because that is what subparagraph (3), in effect, says. This is not in the interest of free Asia, and it is not in the interest of the United States.

Therefore, Mr. President, I hope that the pending amendment will be adopted.

The PRESIDING OFFICER. Who yields time?

Mr. GRIFFIN. I yield back the remainder of our time.

Mr. CHURCH. I yield back the remainder of our time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

Mr. GRIFFIN. Mr. President, in view of the fact that the time for the vote was set at 12 noon, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the

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amendment offered by the Senator from Michigan (MR. GRIFFIN). On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk proceeded to call the roll. MR. LONG (after having voted in the affirmative). On this vote I have a pair with the distinguished Senator from Wisconsin (MR. NELSON). If he were present and voting, he would vote "no"; if I were at liberty to vote, I would vote "yea." I withdraw my vote.

The PRESIDING OFFICER. The Senate will be in order.

MR. KENNEDY. I announce that the Senator from Connecticut (MR. DODD), the Senator from Minnesota (MR. MONDALE), the Senator from Wisconsin (MR. NELSON), and the Senator from Georgia (MR. RUSSELL) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (MR. MONDALE), would vote "nay."

MR. GRIFFIN. I announce that the Senator from South Dakota (MR. MUNDT) is absent because of illness.

The Senator from Arizona (MR. FANNIN) is detained on official business.

If present and voting, the Senator from Arizona (MR. FANNIN) and the Senator from South Dakota (MR. MUNDT) would each vote "yea."

The PRESIDING OFFICER. The Senate will be in order.

MR. SCOTT asked for the regular order.

The result was announced—yeas 47, nays 46, as follows:

[No. 190 Leg.]

YEAS—47

Allen	Eastland	Packwood
Allott	Ellender	Pearson
Anderson	Ervin	Percy
Baker	Fong	Prouty
Bellmon	Goldwater	Scott
Bennett	Griffin	Smith, III.
Bible	Gurney	Sparkman
Boggs	Hansen	Stennis
Byrd, Va.	Holland	Stevens
Byrd, W. Va.	Hruska	Symington
Cannon	Jackson	Talmadge
Cook	Jordan, Idaho	Thurmond
Cotton	McClellan	Tower
Curtis	McGee	Williams, Del.
Dole	Miller	Young, N. Dak.
Dominick	Murphy	

NAYS—46

Aiken	Hatfield	Muskie
Bayh	Hollings	Pastore
Brooke	Hughes	Pell
Burdick	Inouye	Proxmire
Case	Javits	Randolph
Church	Jordan, N.C.	Ribicoff
Cooper	Kennedy	Saxbe
Cranston	Magnuson	Schweiker
Eagleton	Mansfield	Smith, Maine
Fulbright	Mathias	Spong
Goodell	McCarthy	Tydings
Gore	McGovern	Williams, N.J.
Gravel	McIntyre	Yarborough
Harris	Metcalf	Young, Ohio
Hart	Montoya	
Hartke	Moss	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Long, Ior.

NOT VOTING—6

Dodd	Monroe	Nelson
Fannin	Mundt	Russell

So MR. GRIFFIN's amendment No. 716 was agreed to.

MR. MANSFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Several Senators, including MR. SCOTT, moved to lay the motion on the table.

MR. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Several Senators addressed the Chair.

MR. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (MR. GRAVEL). The Senate will be in order so that we can hear the parliamentary inquiry.

The Senator may state the parliamentary inquiry.

MR. DOLE. Mr. President, is the vote on the motion to reconsider?

MR. PASTORE. Mr. President, I ask for the regular order. A motion has been made to lay the motion to reconsider on the table.

The PRESIDING OFFICER. The Senate will be in order. A parliamentary inquiry is in order. We have not started the rollcall vote. An inquiry of this kind is in order.

MR. DOLE. Mr. President, will the Chair advise me whether we are voting on a motion to table or a motion to reconsider?

The PRESIDING OFFICER. The Senate is voting on whether to table the motion to reconsider the vote by which the amendment was agreed to. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER (MR. GRAVEL). Senators will please take their seats. The rollcall has been suspended until there is decorum in the Chamber. Senators will please be seated. Every Senator is aware of all the interest in this vote. It is the desire of the Chair that no mistakes be made by the clerks.

The Senate will be in order.

The call of the roll was resumed and concluded.

MR. BYRD of West Virginia (after having voted in the affirmative). On this vote I have a live pair with the junior Senator from Wisconsin (MR. NELSON). If he were present and voting, he would vote "nay." If I were permitted to vote I would vote "yea." I withhold my vote.

MR. KENNEDY. I announce that the Senator from Indiana (MR. BAYH), the Senator from Connecticut (MR. DODD), the Senator from Louisiana (MR. ELLENDER), the Senator from Wisconsin (MR. NELSON), and the Senator from Georgia (MR. RUSSELL) are necessarily absent.

MR. GRIFFIN. I announce that the Senator from South Dakota (MR. MUNDT) is absent because of illness and, if present and voting, would vote "yea."

The result was announced—yeas 46, nays 47, as follows:

[No. 191 Leg.]

YEAS—46

Allen	Ervin	Packwood
Allott	Fannin	Pearson
Anderson	Fong	Percy
Baker	Goldwater	Prouty
Bellmon	Griffin	Scott
Bennett	Gurney	Smith, III.
Bible	Hansen	Sparkman
Boggs	Holland	Stennis
Byrd, Va.	Hruska	Stevens
Cannon	Jackson	Talmadge
Cook	Jordan, Idaho	Thurmond
Cotton	Long	Tower
Curtis	McClellan	Williams, Del.
Dole	McGee	Young, N. Dak.
Dominick	Miller	
Eastland	Murphy	

NAYS—47

Aiken	Hollings	Muskie
Brooke	Hughes	Pastore
Burdick	Inouye	Pell
Case	Javits	Proxmire
Church	Jordan, N.C.	Randolph
Cooper	Kennedy	Ribicoff
Cranston	Magnuson	Saxbe
Eagleton	Mansfield	Schweiker
Fulbright	Mathias	Smith, Maine
Goodell	McCarthy	Spong
Gore	McGovern	Symington
Gravel	McIntyre	Tydings
Harris	Metcalf	Williams, N.J.
Hart	Monroe	Yarborough
Hartke	Montoya	Young, Ohio
Hatfield	Moss	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Byrd of West Virginia, for.

NOT VOTING—6

Bayh	Ellender	Nelson
Dodd	Mundt	Russell

So the motion to table the motion to reconsider the vote by which the Griffin amendment was agreed to was rejected.

MR. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The question is on the reconsideration of the vote.

MR. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Chair will hear the Senator from Kansas on his parliamentary inquiry.

MR. DOLE. Mr. President, was the motion to reconsider made by a Senator on the prevailing side?

MR. MANSFIELD. No, Mr. President, quit the contrary. I was on the losing side.

MR. STENNIS. Mr. President, may we have order so that we can hear?

The PRESIDING OFFICER. The Senate will be in order.

The Chair will rule that the point of order is made too late at this point. The point of order should have been made at the time the motion to reconsider was entered.

MR. DOLE. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

MR. DOLE. Can the ruling of the Chair be appealed from?

MR. MONDALE. Mr. President—The PRESIDING OFFICER. Certainly, a Senator can appeal from the ruling of the Chair, but in this case it is an accomplished fact.

MR. MONDALE. Mr. President, I move to reconsider the vote.

MR. MILLER. Mr. President, a point of order. Is not that the question?

The PRESIDING OFFICER. The motion of the Senator from Minnesota is not in order.

MR. SCOTT. Mr. President, I demand the yeas and nays, if they have not been ordered.

MR. MANSFIELD. Just a moment, Mr. President. If the fact that I was on the wrong side causes any embarrassment, I shall be glad to withdraw my motion to reconsider and bow to the Senator from Minnesota.

The PRESIDING OFFICER. The Chair has already ruled on that point. The yeas and nays have been ordered on the motion to reconsider, and the clerk will call the roll.

The VICE PRESIDENT assumed the chair.

The bill clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I think all Senators ought to be instructed to take their seats.

The VICE PRESIDENT. The Senate will be in order, so that the votes can be heard.

The rollcall was continued.

Mr. BYRD of West Virginia (when his name was called). Mr. President, on this vote I have a pair with the junior Senator from Wisconsin (Mr. NELSON). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

The roll call was concluded.

Mr. KENNEDY. I announce that the Senator from Connecticut (Mr. DODD), the Senator from Wisconsin (Mr. NELSON), and the Senator from Georgia (Mr. RUSSELL), are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness and, if present and voting, would vote "nay."

The result was announced—yeas 49, nays 46, as follows:

[No. 192 Leg.]

YEAS—49

Aiken	Hatfield	Muskie
Bayh	Hollings	Pastore
Brooke	Hughes	Pell
Burdick	Inouye	Proxmire
Case	Javits	Randolph
Church	Jordan, N.C.	Ribicoff
Cooper	Kennedy	Saxbe
Cranston	Magnuson	Schweiker
Eagleton	Mansfield	Smith, Maine
Ellender	Mathias	Spong
Fulbright	McCarthy	Symington
Goodell	McGovern	Tydings
Gore	McIntyre	Williams, N.J.
Gravel	Metcalf	Yarborough
Harris	Mondale	Young, Ohio
Hart	Montoya	
Hartke	Moss	

NAYS—46

Allen	Ervin	Packwood
Allott	Fannin	Pearson
Anderson	Fong	Percy
Baker	Goldwater	Prouty
Bellmon	Griffin	Scott
Bennett	Gurney	Smith, Ill.
Bible	Hansen	Sparkman
Boggs	Holland	Stennis
Byrd, Va.	Hruska	Stevens
Cannon	Jackson	Talmadge
Cook	Jordan, Idaho	Thurmond
Cotton	Long	Tower
Curtis	McClellan	Williams, Del.
Dole	McGee	Young, N. Dak.
Dominick	Miller	
Eastland	Murphy	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mr. Byrd of West Virginia, against.

NOT VOTING—4

Dodd	Nelson	Russell
Mundt		

So the motion to reconsider was agreed to.

The VICE PRESIDENT. Without further debate, the question recurs on agreeing to the amendment of the Senator from Michigan.

Mr. GRIFFIN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The VICE PRESIDENT. On this question, the yeas and nays have been ordered.

Mr. BYRD of West Virginia addressed the Chair.

The VICE PRESIDENT. The Senator from West Virginia is recognized.

The Senate will be in order.

Mr. BYRD of West Virginia. Mr. President, I ask that the Chair state to the galleries the provisions in rule XIX which preclude demonstrations of approval or disapproval upon the announcement of a vote.

The VICE PRESIDENT. The Chair advises the occupants of the galleries that they are guests of the Senate and they must not in any way applaud or show approval or disapproval of the action of the Senate. If the galleries show any discourtesy or action, the Chair will feel compelled to have the galleries cleared.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia (when his name was called). On this vote I have a live pair with the junior Senator from Wisconsin (Mr. NELSON). If he were present, he would vote "nay." If I were permitted to vote, I would vote "yea." I therefore withhold my vote.

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. KENNEDY. I announce that the Senator from Connecticut (Mr. DODD), the Senator from Wisconsin (Mr. NELSON), and the Senator from Georgia (Mr. RUSSELL) are necessarily absent.

I further announce that, if present and voting, the Senator from Georgia (Mr. RUSSELL), would vote "yea."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness and, if present and voting, would vote "yea."

The yeas and nays resulted—45 yeas, 50 nays, as follows:

[No. 193 Leg.]

YEAS—45

Allen	Eastland	Murphy
Allott	Ervin	Packwood
Anderson	Fannin	Pearson
Baker	Fong	Percy
Bellmon	Goldwater	Prouty
Bennett	Griffin	Scott
Bible	Gurney	Smith, Ill.
Boggs	Hansen	Sparkman
Byrd, Va.	Holland	Stennis
Cannon	Hruska	Stevens
Cook	Jackson	Talmadge
Cotton	Jordan, Idaho	Thurmond
Curtis	McClellan	Tower
Dole	McGee	Williams, Del.
Dominick	Miller	Young, N. Dak.

NAYS—50

Aiken	Hatfield	Moss
Bayh	Hollings	Muskie
Brooke	Hughes	Pastore
Burdick	Inouye	Pell
Case	Javits	Proxmire
Church	Jordan, N.C.	Randolph
Cooper	Kennedy	Ribicoff
Cranston	Long	Saxbe
Eagleton	Magnuson	Schweiker
Ellender	Mansfield	Smith, Maine
Fulbright	Mathias	Spong
Goodell	McCarthy	Symington
Gore	McGovern	Tydings
Gravel	McIntyre	Williams, N.J.
Harris	Metcalf	Yarborough
Hart	Mondale	Young, Ohio
Hartke	Montoya	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mr. Byrd of West Virginia, for.

NOT VOTING—4

Dodd	Nelson	Russell
Mundt		

The VICE PRESIDENT. On this vote the yeas are 45 and the nays are 50. The amendment is rejected. A motion to reconsider is not in order.

AMENDMENT NO. 746

Under the previous order, the Chair lays before the Senate amendment (No. 746) of the Senator from Washington (Mr. JACKSON), which the clerk will report.

The ASSISTANT LEGISLATIVE CLERK. On page 5a, line 18, after the word "in", insert "direct".

Mr. JACKSON. Mr. President, I yield such time as I may require.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. MANSFIELD. Mr. President, the Senator from Washington has 1 hour under his amendment I wonder whether it would be possible, if it meets with his approval, to make it shorter.

Mr. JACKSON. One-half hour would be agreeable to me.

Mr. MANSFIELD. I thank the Senator.

Mr. President, I ask unanimous consent that instead of the 1-hour limitation, the time be reduced to 30 minutes, with the time to be equally divided between the Senator from Washington (Mr. JACKSON) and the Senator from Idaho (Mr. CHURCH).

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

Mr. JACKSON. Mr. President, in attempting to clarify the precise prohibitions on Presidential action that would result from the adoption of the Cooper-Senator from Idaho, on June 10, discussed its provisions at some length. Despite that discussion, however, the precise meaning of section 4 dealing with combat activity in Cambodian air space, is still unclear.

The amendment I am offering to this section would insert the word "direct" on page 5, line 18, after the word "in." The section would then read:

(4) conducting any combat activity in the air above Cambodia in direct support of Cambodian forces.

I offer this one-word change, not with a view to making a substantive change in the Cooper-Church amendment, but, rather, to incorporate in the amendment itself what we take to be the principal objective of its sponsors—that we refrain from activity that could lead to getting bogged down in Cambodia. Direct air support to Cambodian forces might lead us down that path. Air activities, however, aimed primarily at the defense of our forces in Vietnam, and the forces of the South Vietnamese, would be consistent with my understanding of the intention of the Cooper-Church amendment.

It is my impression that the sponsors of the Cooper-Church amendment would not wish to prohibit the use of American aircraft to interdict the conveyance of supplies on Cambodian trails if those supplies were headed for Vietnam where they could be used against American and South Vietnamese forces. Nor, I believe, would the Senators from Idaho and Kentucky wish to prevent the President from ordering our aircraft to bomb the

sanctuary areas should they be reoccupied by the adversary and once again used as a base for attacks on American and allied troops in Vietnam.

That being the case, I can see little reason to take exception to the amendment that I have proposed. Its effect is to clarify an understanding that would otherwise remain ambiguous. For example, under the existing language of section 4, air support to South Vietnamese forces in the sanctuaries, or air attacks on the sanctuaries themselves, could be construed as indirectly supporting Cambodian forces—by, for example, relieving pressure on Cambodian forces fighting elsewhere. Or, to take another example, suppose that at some future time the North Vietnamese should use the sanctuaries to supply war materiel for use against both the American and allied forces in Vietnam and the Cambodian forces in Cambodia. Would air interdiction under these circumstances constitute support of Cambodian forces?

I might add that I am very concerned that half the Senate is reading the Cooper-Church amendment in one way and half the Senate is reading it quite another. This is the precondition for bitter acrimony at some later date when one-half of the Senate may feel that the law is being violated while the other half feels that it is being upheld. I would have preferred a simpler provision that would have enacted the language that we applied to Laos and Thailand last year, because I believe that goes to the heart of the intention of a majority of the Senate today with respect to Cambodia. I would have preferred that the Congress enact a simple provision as follows:

In line with the expressed intention of the President, unless authorized by law hereafter enacted, no funds authorized or appropriated pursuant to this Act or any other law shall be used after July 1, 1970 to retain or introduce American ground combat troops in Cambodia.

However, we have the Cooper-Church amendment before us, and the least we can do is try to clarify what we in fact intend.

Mr. President, I reserve the remainder of my time.

The VICE PRESIDENT. Who yields time?

Mr. MANSFIELD. Mr. President, will the Senator yield me 2 minutes?

Mr. JACKSON. Mr. President, I yield 2 minutes to the distinguished majority leader.

The VICE PRESIDENT. The Senator from Montana is recognized.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

Who yields time?

Mr. CHURCH. Mr. President, I yield myself such time as I may require.

The VICE PRESIDENT. The Senator from Idaho is recognized.

Mr. CHURCH. Mr. President, the amendment offered by the distinguished Senator from Washington is clarifying in nature.

From the beginning, from the earliest drafts of the Cooper-Church amendment, we made it clear that our purpose was not to interfere with American air combat activity over Cambodia related to the interdiction of supply lines that feed into South Vietnam.

We wanted only to restrict air combat activity above Cambodia in support of Cambodian forces as distinguished from that in support of American forces or the needs of American personnel.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. CHURCH. I yield.

Mr. FULBRIGHT. Mr. President, the press has reported that our planes have been flying in close support of Cambodian forces. This would not change that situation. In other words, this would still be prohibited. Is that not true?

Mr. CHURCH. That is my understanding. However, I would defer to the sponsor of the amendment for an answer.

Mr. JACKSON. Mr. President, will the Senator yield on my time?

Mr. CHURCH. I yield.

Mr. JACKSON. Mr. President, I do not intend to use any more time. Therefore, I yield on my time.

In response to the question posed by the able Chairman of the Committee on Foreign Relations, I would say that my amendment, in unequivocal terms, will prohibit direct air support by the American air force to the Cambodia forces.

This amendment is directed at ending, I hope, some of the potential differences between the President and Congress over whether or not there is a violation of this provision.

It could occur, for example, under the existing language, in several circumstances which I set out in my opening statement.

Any bombing of the sanctuaries would be prohibited, under the existing language, if those sanctuaries were used also to attack Cambodian forces.

My amendment makes very definite and certain the intent, which is to prohibit direct air support of Cambodian ground forces.

Mr. FULBRIGHT. Mr. President, I appreciate the statement of the Senator. I have in my hand—and I think it ought to be in the Record so that we will realize what we are talking about—an article entitled "Cambodia Expects U.S. Air Support," written by T. D. Allman, and published in the Washington Post of June 30, 1970.

It says:

Speaking at his second general press conference since deposing Prince Sihanouk March 18, the Premier said, "The U.S. [Air Force] is supporting us in combat now."

The article continues:

Lon Nol said he interpreted recent remarks by American Secretary of Defense Melvin R. Laird to mean that it would not stop.

This is direct air support. And the pending amendment means that we will not continue that. All of this, of course, would be subject to approval by Congress.

If the President would come to Congress and specifically request direct air support, we may agree to do it. But what we are trying to prevent is action by the Executive without any approval by Congress.

Mr. President, I ask unanimous consent to have printed in the Record the article to which I referred.

There being no objection, the article was ordered to be printed in the Record, as follows:

CAMBODIA EXPECTS U.S. AIR SUPPORT

(By T. D. Allman)

PHNOM PENH, June 29.—The Cambodian premier, Gen. Lon Nol, indicated today that the U.S. Air Force would continue flying tactical support missions for his troops after the last U.S. ground forces have left Cambodia.

Speaking at his second general press conference since deposing Prince Sihanouk March 18, the premier said, "The U.S. (Air Force) is supporting us in combat now." He added that Cambodia, through official channels, had requested that the aid continue past June 30.

Lon Nol said he interpreted recent remarks by American Secretary of Defense Melvin R. Laird to mean that it would not stop.

Laird said Friday that American bombing raids in Cambodia after U.S. troops pulled out would have beneficial "side effects on the (Cambodian) troops on the ground." The day before, Secretary of State William P. Rogers said the use of American air power after the pullout "may have a dual benefit," aiding both "our purposes" and serving the Lon Nol regime.

Washington thus has edged away from its earlier assertions that only Communist supply lines in Cambodia would be attacked from the air.

(In a morning briefing at the western White House in San Clemente yesterday, presidential press secretary Ronald L. Zeigler said "the only U.S. activity in Cambodia will be air action for interdiction of enemy supplies and personnel." He then referred reporters to past statements by Rogers and Laird.)

this weekend said that U.S. planes were free to strike targets all over Cambodia.

EMBASSY AUTHORITY

The U.S. Embassy in Phnom Penh, according to well-informed sources here, already has the authority to designate and veto air strikes in Cambodia, although embassy sources say the right is not yet practiced regularly. Overflights by U.S. warplanes of Phnom Penh are now common. . . .

The premier also said that the Cambodian air force, composed of 12 Mig interceptors and also propeller craft, is capable now "of doing more and more". U.S. Air Force personnel during the last month have repaired and re-armed Cambodia's Mig squadron, are working on other Cambodian aircraft, including T-28 fighter bombers, and are in the process of installing sophisticated electronics guidance equipment at Phnom Penh's Pochentong airport.

Military observers here consider it likely that the U.S. Air Force will play an increasingly important role in the fighting here as it does in neighboring Laos, where American bombers, helicopters and gunships are the Laotians' main source of supporting firepower.

NIXON LETTERS

The Cambodian premier, asked if he wished U.S. troops to remain in Cambodia past the withdrawal deadline, replied, "Naturally, yes."

He said he hoped U.S. troops would return to Cambodia in the event of a serious deterioration of his government's military position. However, the premier, confirming that he had exchanged personal letters with President Nixon, said he had not specifically

requested that the President reconsider his withdrawal decision.

LACK OF ARMS

Throughout his press conference, Lon Nol emphasized his army's lack of arms and supplies. He said the U.S. government as yet had named no dollar figure for military aid during fiscal 1971, but added, "We were asked to state priorities. The priority is arms."

The premier three times said that Cambodia had "70 battalions of troops without arms." Responding to questions, he indicated that most of the unarmed battalions were provincial units. He said, "There is no battalion in Cambodia that is sufficiently armed," but said the total of presently equipped battalions was 80. This would mean a standing Cambodian army, both armed and unarmed, of approximately 90,000 men, not including air and sea staff and support units.

ENEMY TROOP ESTIMATES

The premier said that the number of Vietnamese Communist troops in Cambodia since the American invasion had been reduced from 60,000 to 65,000 to "now only about 35,000 men."

The estimate, one of several widely varying figures here, differs from that given by American military sources, who estimated that originally there were only about 23,000 Communist troops in this country. According to the same sources, Vietnamese Communist troop strength in Cambodia has increased to about 50,000.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. JACKSON. Mr. President, I yield to the Senator from Kentucky.

Mr. COOPER. Mr. President, I would like to ask the Senator from Washington several questions for interpretation.

I would like to say that when the Senator from Idaho (Mr. CHURCH), the Senator from Montana (Mr. MANSFIELD), the Senator from Vermont (Mr. AIKEN), and I first prepared our amendment, we had written subsection (4) to prohibit any combat activity by U.S. forces above Cambodia except for the purpose of interdicting enemy supplies and men to be used against U.S. forces in South Vietnam.

We were writing language to protect U.S. forces from supplies and men outside Vietnam—the present subsection (3).

Our amendment does not and could not prohibit such protection. Subsection (4) of our amendment provides that the United States shall not engage in combat activity above Cambodia in support of Cambodian forces without the approval of the Congress.

Does the Senator from Washington understand our purpose?

Mr. JACKSON. I understand what the Senators intended.

Mr. COOPER. We agreed that the purpose of our subsection (3) is to prohibit combat activity over Cambodia by U.S. forces in support of Cambodia.

The Senator has moved to amend the amendment by inserting the word "direct" before the word "support." I am not questioning the Senator's statement. But I want to get the Senator's interpretation.

Are we leaving the doors open? Could the United States so use its Air Force above Cambodia, while not directly, but indirectly on doubtful missions, over Cambodia, for the purpose of supporting the Cambodian forces?

Mr. JACKSON. My amendment narrows the issue in language that I think is clearly unequivocal. I shall repeat what I said in my opening statement. My amendment makes unequivocal the prohibition on providing direct air support to Cambodian forces. I will read what I said in offering the amendment:

I offer this one-word change, not with a view to making a substantive change in the Cooper-Church amendment, but, rather, to incorporate in the amendment itself what we take to be the principal objective of its sponsors—that we refrain from activity that could lead to getting bogged down in Cambodia. Direct air support to Cambodian forces might lead us down that path. Air activities, however, aimed primarily at the defense of our forces in Vietnam, and the forces of the South Vietnamese, would be consistent with my understanding of the intention of the Cooper-Church amendment.

What I am saying here is what I understood to be the intent of the sponsors. All I am trying to do is make the language definite and certain.

Mr. COOPER. As the Senator from Arkansas noted, it appears from the newspapers that the United States is providing air support for Cambodian forces.

Mr. JACKSON. Direct air support.

Mr. COOPER. At this moment I do not know whether this is correct or not. I simply wish to ask if the Senator's amendment would in any way approve in advance such activity?

Mr. JACKSON. My amendment would clearly and unequivocally prohibit it because the situation to which the Senator refers relates to support exclusively of Cambodian forces. The amendment would not prohibit support for non-Cambodian forces.

Mr. COOPER. I understand they may be closely merged.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. FULBRIGHT. There is one point the Senator raised I had not thought of and that is the business of the Ho Chi Minh Trail in protection of our own forces. To illustrate the point, let us assume the South Vietnamese become more and more excited over the prospect of taking Cambodia and pursue on their own an aggressive campaign throughout Cambodia. Will we, without congressional approval, give them close tactical air support if they begin to move all over Cambodia?

Mr. JACKSON. The present Cooper-Church amendment does not prohibit that. That is my understanding.

Mr. FULBRIGHT. I have one other point. If the South Vietnamese undertake to overrun and conquer Cambodia it does not prohibit our helping them, but if they do it in support of Cambodian forces, then it would.

Mr. JACKSON. Yes.

Mr. FULBRIGHT. Does the Senator agree that if the South Vietnamese are combining and working with the Cambodians, we should not give them close tactical support?

Mr. JACKSON. We cannot do what has been done in the past—providing direct support. I do not want to get bogged down in Cambodia.

Mr. FULBRIGHT. But we could get

bogged down as satellites of the South Vietnamese.

Mr. JACKSON. We could get bogged, no matter what.

Mr. FULBRIGHT. And if we do, Congress should have a voice in the matter.

Mr. JACKSON. This amendment does help clarify what I understand is the situation.

Mr. FULBRIGHT. I agree up to that point. When the Senators mentions the South Vietnamese that is another question. If they are determined to stay there, as Mr. Ky says they are, are we going to give them close air support without the approval of Congress?

Mr. JACKSON. I hope they do not stay there.

Mr. FULBRIGHT. Now they are beginning to say they are going to stay. The Senator does not want us to stay with them, does he?

Mr. JACKSON. I do not want the South Vietnamese, the ARVN forces, to stay any longer than is necessary to protect their forces in withdrawing from Cambodia. I am not going to be a party to a further campaign in support of Cambodia.

Mr. FULBRIGHT. That is what I want to make clear.

Mr. DOLE. Mr. President, will the Senator yield?

The VICE PRESIDENT. All time of the Senator from Idaho has expired. The Senator from Washington has 10 minutes remaining.

Mr. JACKSON. I yield 3 minutes to the Senator from Kansas.

Mr. DOLE. Mr. President, I support the amendment of the Senator from Washington.

Mr. President, I think it has been made clear in debate that they would have that right to make air strikes and keep the Vietnamization program on in Cambodia to protect American forces schedule. But who will make the decision as to whether it is direct? Is that decision to be made by the Senate or the generals? Who makes that determination?

Mr. JACKSON. This would have to be an executive decision by the President exercised through his chain of command. Congress runs into differences on the problem of the authority of the President as Commander in Chief and the responsibility of Congress to provide the funds to support the Armed Forces.

The point I am making is that there could be some very close cases where U.S. action might be construed as direct support of Cambodian forces and others where it would be protection of American forces.

This could result from many situations, especially on the battlefield. But at least we have a responsibility to try to make our position as clear as we can and that is what I am trying to do. In the end it would, of course, be necessary for Congress, upon appropriate investigation, to decide whether they want to make another change.

Mr. DOLE. Mr. President, I support the amendment of the Senator from Washington. The legislative history also has helped because it has been made clear by the Senator from Idaho and others that the President has that right.

Mr. McGEE. Mr. President, will the Senator yield?

Mr. JACKSON. I yield 1 minute to the Senator from Wyoming.

Mr. McGEE. Mr. President, I join the Senator from Washington as cosponsor of this particular tightening up of the language. I think it may clarify it. But we should understand that part of the motivation is to make sure we do not unintentionally hobble the efforts of Asians if they can get a security effort going to protect their own interests. I think it tends to keep that option open so they can go in that direction without impeding the possibility of that happening.

This colloquy I have been listening to underscores what I think is of more overriding importance than the Cooper-Church amendment, and that is the important need for this body to address itself now to the future role of Congress in future crises. We have a tendency, if I may say so, in getting so bogged down in who did what to whom in the past that I can predict that one of these days soon we will have another crisis and go through the same motions and look for someone to "hang it" on. I think the time has long since passed for our spelling out with as much wisdom as we have at our command what we do when the crisis comes in Burma, India, or the Near East, wherever it may be.

I hope the Senate supports the amendment of the Senator from Washington.

Likewise, I join in urging members of the Committee on Foreign Relations, through the chairman, who is momentarily absent from the Chamber, to get on with the question of, where do we go from here and how should we proceed as the Senate in a crisis?

Mr. STENNIS. Mr. President, will the Senator yield to me for 1 minute?

Mr. JACKSON. I yield to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I want to go on record in support of this amendment. I think it would be very important in the future. I associate myself with what the Senator from Wyoming has said. We never settle these matters, it seems, after personalities become involved in them, and that is particularly true with respect to collective action on the part of Asian nations.

Mr. CHURCH. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. CHURCH. Mr. President, the Cooper-Church amendment is silent on the question of combat activity in the air above Cambodia except with respect to that activity which relates to support of Cambodia forces. It is this and this alone that is prohibited. The amendment offered by the Senator from Washington makes that clear, and is consistent with the position the sponsors of the amendment have taken throughout the debate.

For that reason, I do not think it is a substantive change; the Senator from Washington does not think it is a substantive change. We believe it is accept-

able, a position I wanted the Senate to know.

Mr. JACKSON. I appreciate very much the explanation of my good friend from Idaho. I am very pleased that he will accept the amendment.

Mr. McGEE. Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. There is not a sufficient second.

The yeas and nays were not ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. MANSFIELD. I ask for the yeas and nays.

The VICE PRESIDENT. There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. Do Senators yield back their time?

Mr. MANSFIELD. Mr. President, I yield back my time.

Mr. HART. Mr. President, before all time is yielded back, may I ask a question?

Mr. JACKSON. Mr. President, if I have any time left, I yield to the Senator from Michigan.

The VICE PRESIDENT. The Senator has 2 minutes remaining.

Mr. HART. The Senator from Washington wants to insure that the existing language does not bar air support for American troops. Is that right?

Mr. JACKSON. No. For non-Cambodian forces. The Senator from Idaho has accepted the amendment. It is an amendment of clarification.

Mr. HART. By inserting the language "in direct support of Cambodian forces," is the Senator authorizing air action that supports them indirectly?

Mr. JACKSON. No.

Mr. HART. Is the Senator sure? Very good.

Mr. JACKSON. It prohibits direct air support to Cambodian forces. It does not prohibit air support to non-Cambodian troops. This is the intent of the Church-Cooper amendment. We went through that here. The sponsors agreed to that.

The VICE PRESIDENT. All time on the amendment has expired.

The question is on agreeing to the amendment of the Senator from Washington (Mr. JACKSON). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Connecticut (Mr. Dodd), the Senator from Wisconsin (Mr. Nelson), and the Senator from Georgia (Mr. Russell), are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. Mondt) is absent because of illness and, if present and voting would vote "yea."

The result was announced—yeas 69, nays 27, as follows:

[No. 194 Leg.]

YEAS—69

Aiken	Ervin	Montoya
Allen	Fannin	Murphy
Allott	Fong	Packwood
Anderson	Fulbright	Pastore
Baker	Goldwater	Pearson
Bayh	Gravel	Pell
Bellmon	Griffin	Percy
Bennett	Gurney	Prouty
Bible	Hansen	Randolph
Boggs	Hartke	Scott
Burdick	Holland	Smith, Maine
Byrd, Va.	Hollings	Smith, Ill.
Byrd, W. Va.	Hruska	Sparkman
Cannon	Jackson	Spong
Church	Jordan, N.C.	Stennis
Cook	Jordan, Idaho	Stevens
Cotton	Long	Symington
Cranston	Magnuson	Talmadge
Curtis	Mansfield	Thurmond
Dole	McClellan	Tower
Dominick	McGee	Tydings
Eastland	McIntyre	Williams, Del.
Ellender	Miller	Young, N. Dak.

NAYS—27

Brooke	Hughes	Moss
Case	Inouye	Muskie
Cooper	Javits	Proxmire
Eagleton	Kennedy	Ribicoff
Goodell	Mathias	Saxbe
Gore	McCarthy	Schweiker
Harris	McGovern	Williams, N.J.
Hart	Metcalfe	Yarborough
Hatfield	Mondale	Young, Ohio

NOT VOTING—4

Dodd	Nelson	Russell
Mondt		

So Mr. JACKSON's amendment was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GURNEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States submitting a nomination was communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Vice President laid before the Senate a message from the President of the United States submitting the nomination of Charles W. Koval, of Pennsylvania, to be U.S. marshal for the western district of Pennsylvania, which was referred to the Committee on the Judiciary.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had passed, without amendment, the bill (S. 4012) to extend the Clean Air Act, as amended, and the Solid Waste Disposal Act, as amended, for a period of 60 days.

The message also announced that the House had passed the bill (S. 3685) to increase the availability of mortgage credit for the financing of urgently needed housing, and for other purposes, with an amendment, in which it re-

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quested the concurrence of the Senate; that the House insisted upon its amendment to the bill and asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. PATMAN, Mr. BARRETT, Mrs. SULLIVAN, Mr. REUSS, Mr. WIDNALL, Mrs. DWYER, and Mr. JOHNSON of Pennsylvania were appointed managers on the part of the House at the conference.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 15733) to amend the Railroad Retirement Act of 1937 to provide a temporary 15-percent increase in annuities, to change for a temporary period the method of computing interest on investments of the railroad retirement accounts, and for other purposes; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. STAGGERS, Mr. FRIEDEL, Mr. DINGELL, Mr. SPRINGER, and Mr. DEVINE were appointed managers on the part of the House at the conference.

The message also announced that the House had agreed to a concurrent resolution (H. Con. Res. 671) relating to the adjournment of the House on Wednesday, July 1, 1970, until 12 o'clock meridian, Monday, July 6, 1970, in which it requested the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution, and they were signed by the Vice President:

H.R. 14118. An act to amend section 213 of the Immigration and Nationality Act, and for other purposes;

H.R. 14720. An act to continue until the close of June 30, 1973, the existing suspension of duties on manganese ore (including ferruginous ore) and related products, and for other purposes;

H.R. 15712. An act to amend the Public Works and Economic Development Act of 1965, to extend the authorizations for title I through IV through fiscal year 1971;

H.R. 17802. An act to increase the public debt limit set forth in section 21 of the Second Liberty Bond Act; and

H.J. Res. 546. Joint resolution authorizing the Secretary of the Interior to provide for the commemoration of the 100th anniversary of the establishment of Yellowstone National Park, and for other purposes.

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

The Senate continued with the consideration of the bill (H.R. 15628) to amend the Foreign Military Sales Act.

Mr. DOLE. Mr. President, the Foreign Military Sales Act has been the focus of Senate attention for nearly 7 weeks. During this time, the act has undergone considerable change, and at this point many observers find it difficult to understand exactly what the act does or says. Several points, however, are clear.

The act is not now, contrary to early appearances, a repudiation of the President, nor does it attempt to relegate executive branch functions to the Congress. The act is a sound reaffirmation of

the President's powers to perform his constitutional duties as Chief Executive of our Nation and Commander in Chief of the armed services. It is also a reasonable expression of congressional sentiment and a valid exercise of legislative authority.

A number of significant modifications have been made in the bill reported from the Foreign Relations Committee. A major focus of these alterations was the committee-adopted Cooper-Church amendment.

The amendment started as a statement which could have been interpreted as an attempt to curtail the prerogatives and authority of the President in the conduct of our foreign affairs and fulfillment of our military responsibilities. Many of the possible ramifications of the original version received detailed and thorough attention by the Members of this body. In the course of that consideration a majority came to feel that certain clarifications and expansions of the amendment were necessary.

PREAMBLE CHANGE

The first change, one which was agreed to unanimously, was made in the preamble of the amendment. The language was altered from an expression of unilateral, legislative initiative to a declaration of shared objectives with the executive.

MANSFIELD-DOLE

Following several rejections of proposed additions to the Cooper-Church amendment, the Mansfield-Dole amendment was adopted by unanimous vote. It emphasized that the Cooper-Church amendment should not be deemed to impugn the constitutional, Commander in Chief powers of the President.

BYRD

The next, and perhaps most significant, change was the second so-called protection of forces amendment offered by the Senator from West Virginia (Mr. BYRD). Its importance arises not only from its adoption and specific language but from its history, for a similar, but narrower amendment had been offered earlier. The first Byrd amendment dealt only with the President's powers to protect the troops under his command in South Vietnam; the second extended to "U.S. Armed Forces wherever deployed." The first Byrd amendment was narrowly defeated; the second was adopted by a vote of 79 to 5. The success of the second Byrd amendment evidences a fundamental reappraisal by nearly half the Senate of the impact which the Cooper-Church amendment might have had in its original, unelaborated form.

JAVITS

The last significant clarification of the Cooper-Church amendment was offered by the Senator from New York (Mr. JAVITS). It pointed out that nothing in the Cooper-Church amendment should be deemed to impugn the constitutional powers of the Congress. This was an important point to make, for, while many in this body were concerned that no action of Congress should cloud the President's powers and authority, there has been equal recognition of legitimate congressional responsibilities in the areas

of foreign and military affairs. Certainly, no Senator wishes to weaken the Congress, and the Javits amendment clearly avoids any implication that the Cooper-Church amendment would do so.

TONKIN GULF

Another point repeatedly made in the debate on the Foreign Military Sales Act and the Cooper-Church amendment, when our overall role in Southeast Asia was considered, was that the 1964 Gulf of Tonkin Resolution was an unfortunate, unrelieved and unnecessary statutory relic. It was seen to have been hastily and ill-considerately adopted; it was found to provide no basis for and to be inherently inconsistent with the present U.S. policy of disengagement and withdrawal; and it could not be seen to serve any worthwhile purpose now or in the future. With these considerations in mind the junior Senator from Kansas offered an amendment to repeal the Gulf of Tonkin resolution. It was adopted with a substantial majority.

SIGNIFICANCE OF DEBATE

Debate on the Foreign Military Sales Act has extended through the greater part of 2 months, perhaps an unprecedented amount of consideration for a measure such as this. Some have labeled this debate a filibuster. I disagree. A filibuster in the history of the practice has been characterized by adamant, unyielding opposition to a matter before this body; rambling, irrelevant orations by proponents of one viewpoint; and little if any constructive debate of the substantive issues involved. The past seven weeks' record hardly illustrates inflexibility at any viewpoint or absence of compromise and resolution of differences. The Senators from Kentucky and Idaho have been most gracious in their willingness to discuss their amendment. The record of votes on the several amendments discloses numerous shifts in position by Senators on both sides of the principle lines of opinion. The debates and exchanges on the Senate floor provide countless examples of agreement, shared objectives and common understanding of the central issues.

Rather than being remembered as a filibuster, Mr. President, I submit that the past 7 weeks will be recognized as one of the greatest, most productive debates in the history of this body. Not only has a major legislative measure been hammered out and refined, but some of the most significant legislative history in recent decades has been created. It has been a rare occasion when so many Members of this body have given such prolonged and eloquent attention to a matter with the constitutional significance of the balance of the war powers between the legislative and executive branches of Government. This debate will stand as a valuable guide for the Congress, the President and constitutional scholars for years to come.

THE PRESIDENT'S ACTIONS

Headlines in this morning's papers carried a message which came as no surprise to this Senator nor to millions of Americans: "Last troops pulled out of Cambodia." It is now clear that President Nixon has met his commitments

and has kept his promise to end U.S. operations in Cambodia by the end of June. I had no doubt that the President would make good his word and that he could do so without the direction or oversight of the Congress.

SUMMARY

It is already July 1 in Southeast Asia, and U.S. Cambodian operations have been completed. The Cooper-Church amendment cannot now be construed as an attempt to second-guess the President's conduct of these operations; it now has appropriate prospective application and provides a valuable statement of strategic long-term policy for the United States in Southeast Asia. By clarifying the President's authority to protect the forces he commands, the Byrd amendment forecloses any possibility that shadow would be cast on the President's powers in this critical area of his responsibilities. By underscoring the constitutional mandate of the Congress, the Javits amendment assures no diminution of the power role of this branch of Government. By repealing the Gulf of Tonkin resolution, the Dole amendment removes whatever chance there might be for further abuse of this ill-considered piece of our former policy in Indochina.

This 7-weeks' debate has been extremely valuable to Senate and public understanding of our goals and purposes in southeast Asia.

I believe all parties to the debate in the Senate have profited by it, just as the President has profited by demonstrating his credibility and reliability in pursuing the Cambodian operations successfully and according to the schedule which he announced.

Mr. MAGNUSON. Mr. President, the Senator from Alaska (Mr. STEVENS) and I, and the Senators from Oregon also, I suspect, and my colleague (Mr. JACKSON) will now submit an amendment which relates to an emergency matter, but we want it understood that there will be no discussion or vote on it until after the Cooper-Church amendment vote. But we want it to be considered, because we need to take action this afternoon.

Mr. CHURCH. Mr. President, I think nothing would be more suitable than for the majority leader to make the summation argument before we submit to a final vote on the Cooper-Church amendment.

Mr. MANSFIELD. Mr. President, I yield briefly to the Senator from Alaska (Mr. STEVENS) to submit his amendment.

Mr. STEVENS. Mr. President, I submit the amendment.

Mr. MANSFIELD. Mr. President, in view of a situation which has developed, so that there will be enough time on both sides, I ask unanimous consent that the vote on Cooper-Church amendment occur at 2:15, with the time to be equally divided between the majority and minority leaders, or whomever they designate.

The VICE PRESIDENT. Is there objection? Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, it is said that the House of Representatives will not approve Cooper-Church should it pass the Senate. It is said that if Cooper-Church clears the Congress, in

all probability, it will be vetoed by the President.

Whether these predicates are true in whole or part or not true at all remains to be seen. I hope they are not true. True or not, however, they do not and cannot detract one iota from this vote today.

The Senate cannot answer for the President. The Senate cannot answer for the House. The Senate can speak only for the Senate. In the vote on Cooper-Church, today, Senators will most assuredly do so, as individuals and collectively. What is said will be most significant, in my judgment, to the future of this Nation.

Cooper-Church is a response to a pattern of Executive actions in Southeast Asia which has been evolving for years and which has now raised constitutional questions regarding the responsibilities of the Senate in the gravest questions which confront the Nation—the questions for war and peace. It is a pattern whereby the Congress was first invited to join with the executive branch, as in the Tonkin Gulf resolution, in delineating a policy, presumably for peace in Vietnam. Therefore, the Congress discovered it had joined in a strategy which led to war. The Congress was carried along into the ever-deepening military involvement in Vietnam.

At first, it was maintained that we had endorsed this course by passing the Tonkin Gulf resolution. Then, several years ago, the executive branch decreed that Congress had not really been needed to legitimize the course. With or without Congress, it was contended, the executive branch could pursue whatever military measures were appropriate under the unilateral powers of the Presidency.

So, the grip of death and destruction which is Vietnam was fixed ever more tightly not only on Southeast Asia but on the neck of this Nation. All the while, Congress has been progressively excluded, even from consultation, on the decisions which have sustained this tragic involvement year after year after year.

A few weeks ago, the matter was brought to a head by the investiture of Cambodian border areas with a massive U.S. military incursion. The executive branch, unilaterally, decreed this advance of our forces across an international border. The executive branch, unilaterally, decreed that Cambodia should be added to the Vietnamese theater of war. Congress was not privy to the decisions which led to this expansion. The Senate leadership was not consulted in either party. The committees of the Senate were not consulted. The advice of the Senate was not sought. The consent of the Senate was not requested, nor was it given.

According to those responsible, the military operation in Cambodia has been a great "success" and U.S. forces have now been withdrawn. May I say that, notwithstanding my view of the initial action, the President is to be commended for insisting that the withdrawal be completed by his military commanders by June 30. That decision, at least, has had some limiting effect on what was undertaken.

We are advised that great quantities

of war material have been seized in this successful operation in Cambodia. Great destruction has been visited on hostile military bases. Thousands of hostile Vietnamese are reported killed.

These reports, I am sure, are carefully compiled by the computers. They are, undoubtedly, some sort of a measure of "military success." What they do not measure is what the success will yield in the end. The fact is that the road into the quagmire of U.S. involvement in Indochina has been lit with the fires of an endless succession of military successes. These other successes—5 years of successes—I am sure, were all accurately computed and reported in their turn, but the war goes on—deeper and deeper into Southeast Asia.

Nevertheless, we may take the assurances of those responsible that Cambodia was a great military success, the greatest of the war. We may take these assurances notwithstanding the fact 339 Americans died in Cambodia and 1,501 were wounded. We may take them even though great segments of Cambodia which were once free of Vietcong and North Vietnamese are now serving as bases of operations for these forces. We may take these assurances, even though this newest success has led to a new U.S. aid commitment at an initial cost of millions in equipment and supplies and, apparently, a commitment of U.S. air support and bombing runs in Cambodia; all this new expenditure of lives and resources will take place in Cambodia, in an area where 4 months ago this Nation spent no resources on aid and its forces were not engaged. Nevertheless, we may take the assurances of the success of this adventure. We may take them even though it must be asked, who will now pay to maintain the new government in Cambodia? Who will see to its survival? Even though it must be asked how much beyond the points of its bayonets does the influence of this government extend among its own people?

We may take these assurances if, for no other reason, than that there is no relevance in a military postmortem at this time. The degree of success of the Cambodian operation is not involved here today. How can it be involved when the necessity for Cooper-Church was conceived before the beginning of the operation in Cambodia? What is involved here is whether the Senate wants to try to inhibit new involvements of this Nation abroad, without prior consultation with the Senate and without sanction from Congress—in Cambodia or elsewhere in Southeast Asia or the world.

Cooper-Church works with the President's present intent, not against it in Cambodia. Cooper-Church is a congressional lock on the door which the President is trying to close behind the exit of the last American serviceman from Cambodia. Cooper-Church is a lock to prevent the casual or careless opening of other doors elsewhere by unilateral actions of the executive branch doors beyond which lie national commitments involving American lives and resources.

Even if the lock of Cooper-Church is passed by the Senate, its strength remains to be tested. Even now, some make

light of it. Some ridicule it. Insofar as I am concerned, it is no laughing matter; it is a most serious matter. Americans have gone to their deaths, over 50,000, through the open doors of Vietnam, Laos, and now Cambodia. More than a hundred billion dollars of U.S. resources have poured through these open doors.

Reject Cooper-Church and, in my judgment, the Senate will have acquiesced in an indefinite continuance of the involvement in Southeast Asia and in a relentless accretion in U.S. casualties and costs in Indochina. That is, I know, not wanted by the President. Nor is it wanted by any Member of the Senate. But that is what we are going to get. That is what the people of this Nation, in my judgment, are going to get. The end of this involvement will remain, as it is now, nowhere in sight.

Reject Cooper-Church and, I say in all soberness, it would be wise for the Senate to anticipate other Cambodias and other Vietnams, elsewhere in the world. They may be expected under any kind of administration.

Cooper-Church is not a guarantee of noninvolvement in Cambodia or anywhere else. It is an attempt; it is not a certainty. However, if it passes, we will have made clear, at least, that the Senate is prepared to try to act with the President to forestall other Vietnams which the President—any President—may be under pressure to undertake.

If it passes, we will make clear, at least, the Senate's resistance henceforth to the pattern of enlarging involvement in Southeast Asia. We will make the Senate's position clear, irrespective of party considerations here and irrespective of the views of the House or the President. I say that most respectfully because, as do we, they have their own responsibilities in this matter and may see them differently.

To be sure, it is devoutly to be hoped that the House will concur in Cooper-Church and that the President will sign the bill of which it is a part. Indeed, in my judgment, the greater the cooperation among the three elected parts of this Government, in this connection, the greater the chance of finally extricating this Nation from this hydra-headed war in Southeast Asia.

In my judgment, therefore, it is of the greatest significance that Cooper-Church is not designed to conflict—and it is not—with the President's constitutional powers as Commander in Chief. Rather, it is designed to permit the constitutional powers of both Congress and the President to be meshed in a common effort to extricate the Nation from the misbegotten situation in Southeast Asia. By passing Cooper-Church, in my judgment, the Senate will have begun to move this Government, beyond words, toward the end of the U.S. involvement in a tragic and mistaken war, toward the restoration of this Nation's tranquility and well-being.

Mr. GOLDWATER. Mr. President, will the Senator from Kansas yield me 2 minutes?

Mr. DOLE. I yield 2 minutes to the Senator from Arizona.

The VICE PRESIDENT. The Senator from Arizona is recognized for 2 minutes.

Mr. GOLDWATER. Mr. President, I rise to explain why I shall vote against the Cooper-Church amendment. I think that for 7 weeks we have been following a will-o'-the-wisp. We have been leading the people of the country to believe that the Cooper-Church amendment will change the military responsibilities of Congress and limit the powers of the President as Commander in Chief.

Mr. President, this is not so. This can only be accomplished by a constitutional amendment. I have suggested time and time again on this floor that I think we can explore the possibilities of an amendment to articles I and II; one, more adequately to describe the exact powers of Congress in the military field and, two, if we want to, limit the powers of the President as Commander in Chief.

I have seen nothing in the Court records to change the language of Swaim against the United States, which was upheld by the Supreme Court in 1897.

I should like to read it:

In *Swaim v. U.S.*, the Court of Claims said: Congress may increase the Army, or reduce the Army, or abolish it altogether; but so long as we have a military force Congress cannot take away from the President the supreme command. It is true that the Constitution has conferred upon Congress the exclusive power "to make rules for the government and regulation of the land and naval forces"; but the two powers are distinct; . . . Congress cannot in the disguise of "rules for the government" of the Army impair the authority of the President as Commander in Chief.

Mr. President, I intend to vote against the Cooper-Church amendment because I do not think it will accomplish what the sponsors think it will.

It will not accomplish what the people of this country have been told it will accomplish.

I do not want to hoodwink the people of this country.

Mr. DOLE. Mr. President, I yield 2 minutes to the distinguished Senator from Maryland (Mr. MATHIAS).

The VICE PRESIDENT. The Senator from Maryland is recognized for 2 minutes.

Mr. MATHIAS. Mr. President, the distinguished Senator from Arizona (Mr. GOLDWATER) has expressed a concern which is widely felt. I think that the exact way in which the Cooper-Church amendment will operate is a question which has occupied the attention not only of the Senate but also a very large part of the public throughout the country.

An article was published in the Washington Post on June 19 last, written by Murrey Marder, in which one of the authors of the Cooper-Church amendment, the distinguished Senator from Idaho (Mr. CHURCH), was quoted as saying that while the amendment would prevent the hiring of troops:

It does not prevent us from arming or equipping or supplying a Thai or Lao force sent into Cambodia, but it would prevent us from hiring them to fight . . . All the Thais would be required to do is to pay the forces.

Mr. President, I wonder whether the distinguished Senator from Idaho would tell us whether that is an accurate reflection of his views.

Mr. CHURCH. Yes. Let me say to the Senator from Maryland that that quotation is accurate. The amendment offered by the Senator from Kentucky (Mr. COOPER) and myself does not address itself to the extension of military weapons or equipment to governments in Southeast Asia. The prohibitions are very precise. The prohibition contained in subsection C of the amendment is against the hiring of foreign troops to fight in Cambodia for Cambodia; but the amendment is silent on the question of sending military equipment. As the Senator knows, this has already been done. Considerable equipment has already been shipped by the Government of the United States to the Lon Nol regime in Cambodia. The amendment does not attempt to bar further deliveries of equipment to the Cambodian Government, if that should become the policy.

Mr. MATHIAS. I thank the Senator for his response. It seems to me that the amendment is reasonable and a constitutional limitation, and it is one which I shall support.

Mr. President, I ask unanimous consent to have printed in the RECORD in its entirety the article to which I have referred.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 19, 1970]
U.S., BANGKOK BARGAIN ON THAI AID TO CAMBODIA

(By Murrey Marder)

The United States and Thailand are bargaining behind the scenes over the costs of sending Thai troops into Cambodia when American forces withdraw, State Department officials acknowledged yesterday.

There is "no decision" so far about what "associate or concurrence" the United States may provide in regard to "various proposals for Thai aid to Cambodia," said State Department press officer Carl E. Barth.

One critical unstated reason why a decision is still hanging while Communist military action is intensifying in Cambodia is the Nixon administration's uncertainty about what will happen on the Senate floor, other official sources conceded.

Senate "doves" are determinedly holding to their opposition to U.S. payments for any "mercenaries" or "hired guns" in Cambodia, Senator Frank Church (D-Idaho) emphasized yesterday. The explicit ban on mercenary pay is wrapped into the pending amendment to limit U.S. military involvement in Cambodia.

Behind the scenes, the argument is sometimes called the "Hessian" issue, a term borrowed from the British use of Hessian mercenaries in the American revolution—a parallel which administration officials resent and deplore.

From Bangkok yesterday, it was reported that Thailand is considering shifting portions of its 11,000-man Thai Black Panther division from South Vietnam to Cambodia. The United States has no information to confirm plans for such a shift, said Barth.

"It is up to the Thais to decide whether to send their troops into Cambodia or not," said Barth, but "We would not want to see anything develop that could weaken the Vietnamization effort in South Vietnam by any precipitate allied troop switches."

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Despite reports from Cambodia yesterday of increasing concern there about road-cutting and encirclement of the capital of Phnom Penh by North Vietnamese and Vietcong troops, officials at the White House and State Department registered no mood of acute alarm.

DIVERSION SEEN

U.S. officials said they do not believe the Communist forces are now preparing an assault on Phnom Penh, or have the strength to do so. Instead, administration officials regard the Communist action more as limited harassment and diversion to try to undermine the government psychologically than as a move to overthrow it militarily.

Thai Prime Minister Thanom Kittlachorn announced on June 1 that his nation was prepared to send "volunteers" to Cambodia who will be "armed and equipped from aid supplied by the United States."

That announcement collided with greatly heightened Senate opposition to U.S. financing of allied troops in the Indochina war.

On June 7, a Senate Foreign Relations subcommittee disclosed that under a secret agreement the United States since 1967 had been paying Thailand \$50 million a year for keeping its combat division in South Vietnam, plus other military benefits for Thailand.

As one consequence of this deal and alarm over "more Vietnams," the pending Church-Cooper amendment to the Foreign Military Sales Act bars any funds "to provide persons to engage in any combat activity in support of Cambodian forces."

Administration officials contend that this provision would frustrate the objectives of the Nixon Doctrine which is intended to supply U.S. assistance to encourage Asians to fight Asian wars. A proposed administration-favored amendment by Sen. Robert P. Griffin (R-Mich.), the assistant Senate Republican leader, would modify the Church-Cooper amendment to permit funds to be paid to support non-American forces who come to Cambodia's aid.

Senate sources said Griffin is holding off pressing his amendment until he is assured of enough votes to challenge the Church-Cooper amendment.

Church said yesterday that "increasingly it's becoming clear that the Nixon Doctrine is a policy of Hessians Unlimited. The Nixon administration is interested in 'hired guns.'"

The Church-Cooper amendment gives the administration "a good bit of leeway" to provide "reasonable aid" to allies, said Church.

PIE ON GRAVY TRAIN

"It does not prevent us from arming or equipping or supplying a Thai or Lao force sent into Cambodia," said Church, "but it would prevent us from hiring them to fight. . . . All the Thais would be required to do is to pay the forces. . . . Otherwise, this thing becomes a gravy train for every government out there which just waits for its slice of pie."

Church acknowledged, however, that even if the Church-Cooper amendment passes, there are roundabout ways the administration might devise to reimburse Thailand for troop costs in Cambodia. He said "our involvement is so immense, and our bureaucracy is so Byzantine, that there are ways to get around the law if they are determined to do so."

What is important, said Church, is to establish the principle that the United States should not operate abroad on a "hired guns" basis.

Administration sources countered that such terminology is "unfair and unwarranted." The same "vitriolic" tag could have been tied, these sources said, to U.S. financial support to allies in World War II or in the Korean war or to NATO allies in earlier years. Other complex factors besides financial support are involved in the current discussions

over possible use of Thai troops in Cambodia, these sources said. But they acknowledged that the Church-Cooper bloc of votes is the largest barrier the administration is now facing in planning its future strategy concerning Cambodia.

Mr. DOLE. Mr. President, how much time do I have remaining?

The VICE PRESIDENT. The Senator from Kansas has 8½ minutes remaining, and the majority leader has 2½ minutes.

Mr. DOLE. I thank the Chair.

Mr. President. I now yield 2 minutes to the Senator from Wyoming.

The VICE PRESIDENT. The Senator from Wyoming is recognized for 2 minutes.

Mr. HANSEN. Mr. President—

Mr. McGEE. Mr. President—

[Laughter.]

Mr. McGEE. Wyoming has two Senators.

Mr. President, I want to say at this late hour that I still think we are missing the point, that the many weeks we have spent on this amendment should be addressed to the real problem before the Senate: How do we update the role of the Senate in the latter half of the 20th century to exercise its responsibility in foreign policy in a nuclear age?

In a day when some people think we can only afford a limited war if we have to test strategic areas, where else can we find the answer to that but by a searching inquiry now?

We have a penchant in this country for looking backward. We spent 30 years trying to avoid World War I after it was over. We spent over 20 years after the fact trying to avoid World War II. Now we are trying to find out who is to blame for Vietnam.

I believe that we should be worrying about what we should be and can be doing in a Burma crisis, an Indian crisis, or a Near East crisis. I would therefore hope that the Committee on Foreign Relations, on which I serve, will turn its energies, resources, and good judgment into a searching exploration of a modern role for the Senate, in concert with the President of the United States, in projecting future crisis decisions in the field of foreign policy.

Mr. DOLE. Mr. President, I yield 1 minute to the senior Senator from Wyoming.

The VICE PRESIDENT. The Senator from Wyoming is recognized for 1 minute.

Mr. HANSEN. Mr. President, may I say that the senior Senator from Wyoming has just been heard from. The junior Senator from Wyoming would appreciate the opportunity to say just a word or two now. [Laughter.]

Mr. President, it is not my intention to attempt to point up all the arguments that have been made in the past 6 weeks regarding the merit or lack of merit of the Cooper-Church amendment to the Foreign Military Sales Act, as it relates to the conduct of the war in Southeast Asia by the President.

I have listened carefully to all facets of the debate since May 14, and I have come to the following conclusions:

First. World War I and II taught one hard truth: Either we maintain an active role in helping keep the peace or we will be forced to fight big wars.

Second. We must, in our own interest, be prepared to exert a continuing influence if we are to maintain a viable role in world affairs; and it is important in our national interest to maintain that ongoing influence.

Third. To pull out of the war in Southeast Asia or any other place that, in the considered judgment of our President, our country's long-range interest calls for our involvement—even militarily—would be to abdicate our responsibilities as a great Nation and as a force for justice and liberty.

With those basic principles in mind, let me say that I find myself in complete agreement with the distinguished Senator from Arkansas (Mr. McCLELLAN), when he said:

I simply think that the President of our country deserves better treatment and greater respect than to have inflicted upon him the public rebuke and implications that I think are clearly implicit in this amendment. The implication that it is premised in large measure on distrust and conveys a lack of confidence in the President of the United States as our commander-in-chief, I think, is inescapable and irrefutable.

I, for one, am not prepared to vote to do that.

Mr. President, today's headlines are that the last of the U.S. combat troops committed to removing the enemy from its border sanctuaries have been withdrawn from Cambodia.

None can deny that the Cambodian operation has been a tremendous success. None can deny that our President, Richard Nixon, keeps his word.

The President promised that American forces would be withdrawn by June 30, and he accomplished that. In my opinion, it was unfortunate that such pressures were brought upon the President that he was compelled to announce publicly a deadline for withdrawal of American troops.

In announcing the withdrawal time to the Congress and to the public, it was necessary that the enemy also be informed of the deadline for American withdrawal. With this knowledge of a deadline, and of a 21-mile limit inside Cambodia, the enemy was enabled to withdraw beyond the mileage limit and bide its time—avoiding a confrontation with allied forces—until the June 30 deadline. I don't believe anyone can determine at this time whether the enemy will now attempt to move back full force into the former sanctuaries.

There is reason to believe that passage of the amendment could encourage the enemy to return to the sanctuaries, or attempt a return, believing that American troops would not be able to strike at him in his lair without the forewarning of an extended debate in the Senate.

Mr. Nixon, in making the Cambodian decision, did what had to be done to protect American troops in their continued withdrawal from Vietnam. The decision was based upon sound advice, and upon the best judgment of the military, whose operations have been ham-

pered for years by the ability of the enemy to strike at American units and villages of South Vietnam—and return to a free base.

The success of the operation was due, in part, to the element of surprise the President was able to attain in ordering American troops against the sanctuaries without lengthy warning to the enemy. U.S. forces were able to seize and maintain the initiative—an initiative that heretofore had been locked in the hands of the enemy. The element of surprise certainly would have been lost had the President been compelled to seek the permission of Congress to raid the sanctuaries in Cambodia. There would have been deliberations and there would have been debate—likely, extended debate. The enemy could have meanwhile withdrawn deeper into the jungle—taking with him the vast storehouses of his arsenal that have been captured in the Cambodian operation. Yet, because this was unnecessary, the Cambodian operation was a signal success—the biggest success of the long years of the war.

Vice President AGNEW, on June 20, gave it this description:

The operation ordered by the President of the United States and carried out by your brave sons in this short period is the greatest military victory of the United States since MacArthur landed the Marines at Inchon—and in spite of the screams of anguish from the usual capitulators, apologies are not in order.

Mr. President, in my view, if Congress has strong feelings about what American policies should be, we should try to contemplate them prospectively, rather than dealing with them after the fact. Land and sea and air forces of the United States were committed to Indochina long and bloody years before President Nixon was inaugurated. He has made, and is continuing to make, with marked success, efforts to withdraw our men from combat on that continent. It would be strange policy indeed to tie the hands of the Commander in Chief in time of national crisis, when all available means must be used to carry out a successful withdrawal—a withdrawal designed to leave the free people of Asia a chance to survive.

Mr. President, although many of us do not believe this amendment would be accepted by the House of Representatives, even should it be accepted by the Senate, and millions of citizens have considered the debate on the matter pointless, we must consider how the enemy would view Senate passage of this amendment.

Let us look briefly at a report in English of an article from the Hanoi daily Nhan Dan, which I ask unanimous consent to have printed in the RECORD at conclusion of my remarks.

The VICE PRESIDENT. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HANSEN. Mr. President, the article, on June 14, stated:

The Cooper-Church amendment submitted to the Senate shows to what extent the distrust in the U.S. President has reached right in the highest legislative organ of the United States. By virtue of the Cooper-

Church amendment, all the expenditures for U.S. troops in Cambodia including funds reserved for U.S. military advisors commanding Saigon puppet troops and other mercenaries there will be cut.

The fact that the Cooper-Church amendment, put forth just after Nixon had solemnly promised to the whole nation to withdraw all U.S. troops from Cambodia before July 1, also proved how slightly the great majority of the Senators including many "hawks" and public opinion in the United States treat Nixon and his promises.

Mr. President, just the fact that the amendment was introduced led the enemy press to state that "the great majority of Senators" believed the President would not keep his word. President Nixon has of course kept his word, and only a very few, if any, Senators ever doubted that his word would be kept.

Further, in commenting on the defeat of an amendment offered by the distinguished Senator from West Virginia (Mr. BYRD), the article said:

The recent Senate vote against Nixon was essentially a non-confidence vote which, in any other country in Western Europe, would have forced the head of government to resign.

This certainly is indicative of how little of what we do here is understood by the enemy. It reflects a complete lack of understanding of how our Government operates. These misjudgments and ignorance on the part of the enemy would be amusing if they dealt with less serious areas. But there is nothing amusing about an enemy, sworn to aggression, that is grossly mistaken about the resolve of the United States. To make it clear to the enemy that the U.S. Senate does support the actions of American troops committed to battle, and the President of the United States, I strongly urge defeat of the amendment.

EXHIBIT 1

FAILURE OF BYRD AMENDMENT SEEN AS DEFEAT FOR NIXON

HANOI, VIETNAM, June 14—The Hanoi daily Nhan Dan titled "A Major Defeat for Nixon at the U.S. Senate" its commentary today on the U.S. Senate vote of June 11 rejecting the amendment by Sen. Robert Byrd, Democrat-West Virginia, to authorize the President to commit U.S. troops to Cambodia after June 30. Nhan Dan quoted AFP and AP as saying that this was seen by observers as a "major defeat for the Nixon administration," a "key victory" of the "Senate's anti-war bloc."

The paper pointed out that the "credibility gap" which had developed sharply under the Johnson administration has been greatly aggravated since the United States recklessly committed armed aggression against Cambodia and expanded the war to the whole Indochina. The Cooper-Church amendment submitted to the Senate shows to what extent the distrust in the U.S. President has reached right in the highest legislative organ of the United States. By virtue of the Cooper-Church amendment, all the expenditures for U.S. troops in Cambodia including funds reserved for U.S. military advisors commanding Saigon puppet troops and other mercenaries there will be cut.

The paper went on: "The fact that the Cooper-Church amendment, put forth just after Nixon had solemnly promised to the whole nation to withdraw all U.S. troops from Cambodia before July 1, also proved how slightly the great majority of the Senators including many 'hawks' and public

opinion in the United States treat Nixon and his promises."

After recalling the failures of Nixon's moves to oppose the Cooper-Church amendment such as sending "fact finding missions" to Indochina in an attempt to fool the American Congress and people with imaginary military victories and wirepulling his yes-men to submit "counteramendments" to alter the amendment sponsored by Cooper and Church, the paper said: The rejection of the Nixon-backed Byrd Amendment on June 11 constituted another blow to the already waning power of Nixon in the eyes of the American people and the U.S. Congress.

Nixon is facing mounting opposition from the American people and Congress and even within his administration. Contradictions have been such that the Senate had used its constitutional powers to stop the President's actions. While the latter resorts to every imaginable trick to oppose the Senate, as Western opinion has rightly remarked, the recent Senate vote against Nixon was essentially a non-confidence vote which, in any other country in Western Europe, would have forced the head of government to resign.

It has also been reported that Nixon is preparing to send another "fact-finding mission" to Indochina purposely [as received] to cook up a report that would completely fit it to his desire. His yes-men have already made ready half a dozen "counter-amendments" to be submitted to the Senate.

All these maneuvers, however, can never fill the "credibility gap" that is widening between the Nixon administration and the American people.

Nhan Dan went on: "As for the Indochinese peoples, from the 'constitutional crisis' which is taking place in the United States, they have drawn these two conclusions: First, Nixon still clings to his plan to carry on the armed invasion against Cambodia and expand the war to the whole Indochina, even with U.S. infantry. Secondly, the more obdurately they pursue the war of aggression, the more critical the situation in Indochina and right in the United States will become and they are sure to land in incalculable difficulties."

The balance of forces is obviously in favour of the Indochinese peoples, both militarily and politically.

"We will fight till complete victory," the paper stressed in conclusion.

Mr. DOLE. Mr. President, I yield 1 minute to the Senator from South Carolina.

The VICE PRESIDENT. The Senator from South Carolina is recognized for 1 minute.

Mr. THURMOND. Mr. President, I rise in opposition to the Cooper-Church amendment.

Passage of the Cooper-Church Amendment today by the U.S. Senate would be a blow to the struggle of free men in Cambodia who are being murdered daily by Communist forces from North Vietnam. Its effect could bring down the new government of Cambodia. This would be followed by the positioning of Communist forces along the borders of South Vietnam and Thailand which adjoin Cambodia. While many Americans feel this amendment would merely prevent the further introduction of U.S. troops into Cambodia it goes much further in that it also prohibits U.S. help to any other country in Asia which is willing to come to the aid of Cambodia. Thus the Senate would be waving the white flag of surrender over Cambodia under the cloak of reassuming the workmaking

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powers of the Congress. While it is my belief the House of Representatives will never accept this amendment, the psychological effect will be a repudiation of the Nixon doctrine which called upon our Asian allies to stand together in their own defense: I favor giving arms and other necessary aid to those Asian countries under attack by Communist forces as the surest means of permitting the reduction of U.S. military personnel in this area. At the same time such a policy would enable the soldiers of Asia to possess the means to successfully defend their own soil from Communist attacks. The passage of this amendment will also shake our allies in Asia and likely weaken their resolve to stand up to Communist forces. In this respect it is dangerous and could possibly be disastrous. The Senate would in effect be casting Cambodia into the jaws of Communist expansion and, if engulfed, South Vietnam and Thailand could follow.

Mr. MANSFIELD. Mr. President, I yield 2 minutes to the Senator from West Virginia.

The VICE PRESIDENT. The Senator from West Virginia is recognized for 2 minutes.

Mr. BYRD of West Virginia. Mr. President, previously, I expressed my opposition to the Cooper-Church amendment because I felt that the first paragraph would convey a message to the extent that the President of the United States was not to be allowed to exercise his powers under the Constitution as Commander in Chief in order to protect American forces stationed in South Vietnam.

I also expressed at that time my support of paragraphs 2, 3, and 4 of the Cooper-Church language believing, as I did, and as I do now, that they are calculated to prevent our entering into a new commitment or getting involved in a new war.

Mr. President, with the acceptance of the Mansfield amendment, together with acceptance of the Byrd-Griffin amendment, I believe it has now been made clear that the President, acting as Commander in Chief under the Constitution, not only possesses the constitutional power to protect the lives of American forces wherever deployed, which includes South Vietnam, but also that he may exercise that power in an emergency situation to protect those troops without being forced, if it is impracticable to do so, to consult the Congress first.

Accordingly, I believe now that this weakness, having been cured, I can and will support the Church-Cooper language as amended. I would urge my colleagues to do likewise.

Mr. President, I have also previously indicated my belief that if the Church-Cooper language as originally written were passed by the Senate, the House would not accept it.

I trust, now that the language has been amended as originally described, that the House will accept this language.

The VICE PRESIDENT. The time of the Senator has expired.

Mr. MANSFIELD. Mr. President, I yield 1 minute to the Senator from West Virginia.

The VICE PRESIDENT. The Senator from West Virginia is recognized for 1 additional minute.

Mr. BYRD of West Virginia. Mr. President, I believe that the Senate has performed a service to the country by this extended debate, because it clearly indicates that the Congress intends to share the war powers under the Constitution while at the same time we recognize the powers of the President as Commander in Chief. In summation we convey a clear message to our own people, our own troops, and to the enemy that our troops will be protected, but that the prior approval of Congress will be necessary before our Nation can be committed to any new land war in Southeast Asia—thus avoiding our becoming bogged down in new Vietnams.

Mr. DOLE. Mr. President, I yield 1 minute to the Senator from Alaska.

The VICE PRESIDENT. The Senator from Alaska is recognized for 1 minute.

Mr. STEVENS. Mr. President, at the beginning of the debate, I had an exchange with the senior Senator from Missouri (Mr. SYMINGTON) in which I asked that this measure be delayed until the President had had an opportunity to keep his commitments to the country. I think that President Nixon has kept his commitments.

This is not an attempt to limit President Nixon's authority over our ground troops. Secretary Rogers has said our combat ground troops will not move back to Cambodia.

This is the first step toward reasserting the role of the Senate as an equal partner in foreign affairs.

I shall vote for the amendment.

Mr. DOLE. Mr. President, I yield 1 minute to the Senator from Mississippi.

The VICE PRESIDENT. The Senator from Mississippi is recognized for 1 minute.

Mr. STENNIS. Mr. President, the pending amendment has been greatly watered down. The main clause remaining in the amendment pertains to retaining U.S. forces in Cambodia. The American forces are already out of Cambodia. So, that section goes out—at least it has no meaning now.

However, there remains one message in the amendment. That is the message to our enemies, our adversaries in war; that message is the President is restricted. I feel, and I know, that this message will go home to them.

I believe the day will come when we know positively that this amendment imperils the success of the withdrawal of our forces.

I am strongly opposed to it on that ground as well as on the ground that it is an attempt to restrict the President after the battlelines have already been drawn and the war has been going on for years.

Mr. DOLE. Mr. President, I yield 1 minute to the Senator from Pennsylvania.

The VICE PRESIDENT. The Senator from Pennsylvania is recognized for 1 minute.

Mr. SCOTT. Mr. President, the Senator from Michigan (Mr. GRIFFIN) and I both had the opinion last night that if we were able to have the Griffin amend-

ment passed, it would be acceptable to us and we would vote for the Cooper-Church amendment, as thus amended.

I regard the 7 weeks that have been spent here as having been largely a wasted effort. I regret it very much, because we were unable to persuade our colleagues of the importance of not impinging on the essential powers of the President.

I could not under those circumstances support the amendment.

We have tried very hard for an accommodation, and everyone has participated in the effort.

I think it will be necessary now to vote against the Cooper-Church amendment in view of the fact that, as the Senator from Wyoming (Mr. MCGEE) so well pointed out, we ought to be considering ways by which we can work in accord with the President instead of sending him flaming messages asserting of our conceived prerogatives.

Mr. President, we have better work to do. We should work with the President and find means by which to do it.

The Senate is entitled to be heard and should be heard, but within the framework of its responsibilities.

Mr. DOLE. Mr. President, I yield 1 minute to the Senator from California.

The VICE PRESIDENT. The Senator from California is recognized for 1 minute.

Mr. MURPHY. Mr. President, I will not delay the Senate. I have listened carefully to the debate. The purpose is clear. However, the purpose is no longer necessary because all the American forces are now out of Cambodia. I see nothing productive to be accomplished by agreeing to the amendment.

I would find it particularly difficult to explain the action of the Senate to any of our troops that are now in Southeast Asia.

Mr. President, I shall oppose the amendment.

Mr. JACKSON. Mr. President, I am pleased that the exhaustive, if not exhausting, record of debate on the Cooper-Church amendment has clarified its meaning and intent to a substantial degree. In particular, I am pleased that my amendment to section 4 received such substantial support for I believe that it has the effect of sharpening the nature of the prohibition on the use of U.S. airpower in Cambodia. It serves to embody the intent of a majority of the Senate, with which I am in complete accord, which is to prevent us from getting bogged down in Cambodia, while enabling us to defend American and allied troops in Southeast Asia.

I should have preferred further clarification of the precise wording of section 3 as well. Nevertheless, I believe that discussion on the floor, especially remarks by Senators COOPER and CHURCH, has served to focus the point of the prohibition on the raising of mercenary forces. It is meant to prohibit, as many Senators pointed out, the recruitment of highly paid mercenary forces, while allowing U.S. aid to countries in Southeast Asia who wish to field troops of their own to provide for collective regional defense. This distinction is of profound im-

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MEDICAL FACILITIES CONSTRUCTION AND MODERNIZATION AMENDMENTS OF 1970—VETO MESSAGE

The PRESIDING OFFICER (Mr. ALLOTT). Under the previous unanimous-consent agreement, the Chair now lays before the Senate a veto message, which will be reported.

The legislative clerk read as follows:

The House of Representatives having proceeded to reconsider the bill (H.R. 11102) entitled "An Act to amend the Public Health Service Act to revise, extend, and improve the program established by title VI of such Act, and for other purposes", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the House of representatives agreeing to pass the same.

The PRESIDING OFFICER (Mr. ALLOTT). The question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding?

Under the previous unanimous-consent agreement to vote at 5:30, the time is to be controlled respectively by the majority leader and the minority leader. Who yields time?

Mr. SCOTT. Mr. President, I yield myself 2 minutes for the purpose of addressing an inquiry to the distinguished majority leader.

The PRESIDING OFFICER. May we have order in the Senate, please?

The Senator from Pennsylvania may proceed.

Mr. SCOTT. Mr. President, following the consideration of the pending business, there will be a continuation of the consideration of the postal reform bill. I understand that there is, as far as I can find out, a disposition to accelerate action on the matter pending before us.

I would like to suggest to the distinguished majority leader that perhaps we could have an agreement on an earlier vote.

UNANIMOUS-CONSENT REQUEST

Mr. MANSFIELD. Mr. President, one of the reasons that the leadership asked the Senators to stay after the vote was taken was to raise that possibility.

I have discussed the matter not only with the distinguished minority leader but also with the committee chairman, the Senator from Texas (Mr. YARBOROUGH), and the ranking minority member of the committee, the Senator from New York (Mr. JAVITS).

They have indicated that it would be fair to say that a 30-minute limitation, with the time to be divided between them, would be satisfactory, and that any Senator would be given recognition regardless of his point of view, the vote to occur at the end of the 30 minutes.

Mr. President, just on the chance that that might be acceptable, I make that unanimous-consent request at this time.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. JAVITS. Mr. President, I wish to state to the Senator that I will support the overriding of the veto. But I will yield time to any Member of the minor-

ity or to any Senator who desires time to oppose the override.

Mr. MANSFIELD. Mr. President, I am sure the manager of the bill will do the same.

Mr. YARBOROUGH. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. YARBOROUGH. Mr. President, since we discussed this matter originally, other members of the committee have indicated they want to speak. I suggest we have 30 minutes to a side rather than 15 minutes.

Mr. MANSFIELD. I think we had better let it go as it is. That would take it up to 5:30 p.m. anyway. I withdraw my request.

Mr. President, I ask for the yeas and nays on the pending business.

The PRESIDING OFFICER (Mr. ALLOTT). The Chair is happy to inform the Senate that under the Constitution a yeas-and-nays vote is automatic. The request for the yeas and nays is not necessary.

Mr. MANSFIELD. I thank the Presiding Officer.

EMERGENCY HOME FINANCE ACT OF 1970

Mr. SPARKMAN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3685.

The PRESIDING OFFICER (Mr. ALLOTT) laid before the Senate the amendment of the House of Representatives to the bill (S. 3685) to increase the availability of mortgage credit for the financing of urgently needed housing, and for other purposes, which was to strike out all after the enacting clause, and insert:

That this Act may be cited as the "Emergency Home Finance Act of 1970".

TITLE I—REDUCTION OF INTEREST CHARGES FOR MEMBERS OF THE FEDERAL HOME LOAN BANK SYSTEM

SEC. 101. (a) There is authorized to be appropriated not to exceed \$250,000,000, without fiscal year limitation, to be used by the Federal Home Loan Bank Board for disbursement to Federal home loan banks for the purpose of adjusting the effective interest charged by such banks on short-term and long-term borrowing to promote an orderly flow of funds into residential construction. The disbursement of sums appropriated hereunder shall be made under such terms and conditions as may be prescribed by the Board to assure that such sums are used to assist in the provision of housing for low- and middle-income families, and that such families share fully in the benefits resulting from the disbursement of such sums. No member of a Federal home loan bank shall use funds the interest charges on which have been adjusted pursuant to the provisions of this section to make any loan, if—

(1) the effective rate of interest on such loan exceeds the effective rate of interest on such funds payable by such member by a percentile amount which is in excess of such amount as the Board determines to be appropriate in furtherance of the purposes of this section; or

(2) the principal obligation of any such loan which is secured by a mortgage on a residential structure exceeds the dollar limitations on the maximum mortgage amount, in effect on the date the mortgage was originated, which would be applicable if the

mortgage was insured by the Secretary of Housing and Urban Development under section 203(b) or 207 of the National Housing Act.

(b) Not more than 20 per centum of the sums appropriated pursuant to subsection (a) shall be disbursed in any one Federal home loan bank district.

TITLE II—AUTHORITY FOR THE FEDERAL NATIONAL MORTGAGE ASSOCIATION TO PROVIDE A SECONDARY MARKET FOR CONVENTIONAL MORTGAGES

SEC. 201. (a) Section 302(b) of the National Housing Act is amended—

(1) by inserting "(1)" immediately following "(b)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) For the purposes set forth in section 301(a), and with the approval of the Secretary of Housing and Urban Development, the corporation is authorized, pursuant to commitments or otherwise, to purchase, service, sell, lend on the security of, or otherwise deal in mortgages which are not insured or guaranteed as provided in paragraph (1) (such mortgages referred to hereinafter as 'conventional mortgages'). No such purchase of a conventional mortgage shall be made if the outstanding principal balance of the mortgage at the time of purchase exceeds 75 per centum of the value of the property securing the mortgage, unless (A) the seller retains a participation of not less than 10 per centum in the mortgage; (B) for such period and under such circumstances as the corporation may require, the seller agrees to repurchase or replace the mortgage upon demand of the corporation in the event that the mortgage is in default; or (C) that portion of the unpaid principal balance of the mortgage which is in excess of such 75 per centum is guaranteed or insured by a qualified private insurer as determined by the corporation. The corporation shall not issue a commitment to purchase a conventional mortgage prior to the date the mortgage is originated, if such mortgage is eligible for purchase under the preceding sentence only by reason of compliance with the requirements of clause (A) of such sentence. The corporation may purchase a conventional mortgage which was originated more than one year prior to the purchase date only if the seller is currently engaged in mortgage lending or investing activities and if, as a result thereof, the cumulative aggregate of the principal balances of all conventional mortgages purchased by the corporation which were originated more than one year prior to the date of purchase does not exceed 10 per centum of the cumulative aggregate of the principal balances of all conventional mortgages purchased by the corporation. The corporation shall establish limitations governing the maximum principal obligation of conventional mortgages purchased by it which are comparable to the limitations which would be applicable if the mortgage were insured by the Secretary of Housing and Urban Development under section 203(b) or 207 of the National Housing Act.

"(3) The corporation may not make any public offering of securities to finance its secondary market operations in conventional mortgages at any time that the Secretary of Housing and Urban Development determines that such an offering would unduly inhibit the financing by the Government National Mortgage Association of low and moderate income housing in implementation of its special assistance functions."

(b) Section 5202 of the Revised Statutes (12 U.S.C. 82) is amended by adding at the end thereof the following:

"Eleventh. Liabilities incurred in connection with sales of mortgages, or participations therein, to the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation."

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tion which is permanently at war must slide into dictatorship.

That fear is my principal reason for opposing the present war in Indochina. It is my principal reason too for believing that as a Senator I have not just the right but the duty to "stand up" to the President rather than "behind" him in a policy which seems more likely to perpetuate the war than to end it. Peaceful, constructive dissent is the only available means through which we can practice democracy now in such a way as to have some hope of preserving it for the future.

Mr. President, I want to make clear again as I have in the past that that is the concern I have about the war. It is not because of my lack of interest in the people of South Vietnam or Cambodia; it is simply and solely my interest in the constituents I represent in the State of Arkansas and, of course, the citizens of the United States.

I have believed for a number of years that this war is destroying our economy and that it is destroying gradually and slowly, as De Tocqueville mentioned, the functioning of a democratic system, and that if we continue indefinitely in waging war we will have to forego a democratic system in this country.

RECESS

Mr. HUGHES. Mr. President, I ask unanimous consent that the Senate stand in recess, subject to the call of the Chair, but in no case later than 3:50 p.m.

The VICE PRESIDENT. Without objection, it is so ordered.

Thereupon, at 3:29 p.m. the Senate took a recess subject to the call of the Chair.

The Senate reassembled at 3:50 p.m. when called to order by the Presiding Officer (Mr. ALLOTT).

AMENDMENT OF THE FOREIGN
MILITARY SALES ACT

The Senate continued with the consideration of the bill (H.R. 15628) to amend the Foreign Military Sales Act.

Mr. THURMOND. Mr. President, my opposition today to passage of the Military Sales Act in its present form rests on the crippling amendments affixed to the bill by the Senate Foreign Relations Committee. While I support military sales and credits to our allies abroad, the bill is replete with unwise amendments. These amendments, including the Cooper-Church amendment, repudiate the Nixon doctrine of providing sufficient military arms to our allies in Southeast Asia and encouraging them to provide for their own defense. A number of Senators have stood on the Senate floor and stated it is not important to the United States who governs in Southeast Asia. Several have gone so far as to state that a Communist government in South Vietnam would promote tranquility in that area on the grounds the North Vietnamese conquerors would not submit to Red China. Such reasoning is devastating to the hopes of free men everywhere and

encourages the forces of oppression, thereby prolonging the murder of innocent people. The removal of U.S. fighting men from Southeast Asia is one thing, but restricting aid to local forces opposing Communist invaders is quite another. This trend in the Senate reveals the frustrations of the Vietnam war and could mark the beginning of a return to a fortress America policy which would doom the struggle of freedom-loving people throughout the world.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the bill.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments, and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER (Mr. ALLOTT). The hour of 4 o'clock has arrived. The bill (H.R. 15628) having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Connecticut (Mr. DONN), the Senator from Hawaii (Mr. INOUYE), the Senator from Wisconsin (Mr. NELSON), and the Senator from Georgia (Mr. RUSSELL) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness and, if present and voting, would vote "yea."

The result was announced—yeas 75, nays 20, as follows:

[No. 196 Leg.]

YEAS—75

Alken	Gravel	Moss
Allott	Griffin	Murphy
Anderson	Harris	Muskie
Baker	Hart	Packwood
Bayh	Hartke	Pastore
Bellmon	Hatfield	Pearson
Bennett	Hollings	Pell
Bible	Hruska	Perce
Boggs	Hughes	Proxmire
Brooke	Jackson	Randolph
Burdick	Javits	Ribicoff
Byrd, Va.	Jordan, N.C.	Saxbe
Byrd, W. Va.	Kennedy	Schweiker
Cannon	Long	Scott
Case	Magnuson	Smith, Maine
Church	Mansfield	Smith, Ill.
Cooper	Mathias	Sparkman
Cranston	McCarthy	Spong
Curtis	McGee	Stevens
Dole	McGovern	Symington
Eagleton	McIntyre	Tydings
Fong	Metcalf	Williams, N.J.
Fulbright	Miller	Yarborough
Goodell	Monroney	Young, Ohio
Gore	Montoya	

NAYS—20

Allen	Fannin	Stennis
Cook	Goldwater	Talmadge
Cotton	Gurney	Thurmond
Domnick	Hansen	Tower
Eastland	Holland	Williams, Del.
Ellender	Jordan, Idaho	Young, N. Dak.
Ervin	McClellan	

NOT VOTING—5

Dodd	Mundt	Russell
Inouye	Nelson	

[So the bill (H.R. 15628) was passed.]
Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SCOTT. Mr. President, I move to lay that motion on the table.

Mr. FULBRIGHT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended, so as to read: "An act to amend the Foreign Military Sales Act, and for other purposes."

Mr. FULBRIGHT. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. ALLOTT) appointed Mr. FULBRIGHT, Mr. SPARKMAN, Mr. MANSFIELD, Mr. CHURCH, Mr. AIKEN, Mr. CASE, and Mr. COOPER conferees on the part of the Senate.

Mr. President, I ask unanimous consent that the bill be printed and passed, so that Senators may be informed of the many changes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FULBRIGHT. Mr. President, I wish to commend the distinguished Senator from Idaho (Mr. CHURCH) for his great patience and wisdom in handling this bill. This bill has been under consideration for nearly 8 weeks—I think it will be 8 weeks on Thursday. This is one of the most arduous and difficult bills we have had this year. The Senator from Idaho has done an outstanding job and has handled it with great tact and wisdom and has been most conscientious in his attendance. I believe the effect of his management and the cooperation of the Senator from Kentucky (Mr. COOPER) has been very beneficial to the work of the Senate. I commend both of them.

Mr. MANSFIELD. Mr. President, having spent over 7 weeks on this one piece of legislation, it is impossible to single out any particular Senator for commendation; the Senate as a whole has participated in a truly historic event. The issue of the separate responsibilities of the Congress and the executive branch have never been more fully explored; the final action on this bill marks a significant breakthrough in the reassertion of the responsibilities of the Senate in the essential decisions affecting the foreign policy of this country as well as the issue of war and peace.

The Senator from Idaho (Mr. CHURCH) who managed this bill along with the Senator from Kentucky (Mr. COOPER) must however he mentioned. The long hours spent in shepherding this bill to passage demonstrated a dedication to duty and principle that sets a noble example to every public official.

To the Senate as a whole I wish to express my appreciation, gratitude and pride for the level of the debate during these weeks and for the cooperation afforded the leadership while these issues were before us.